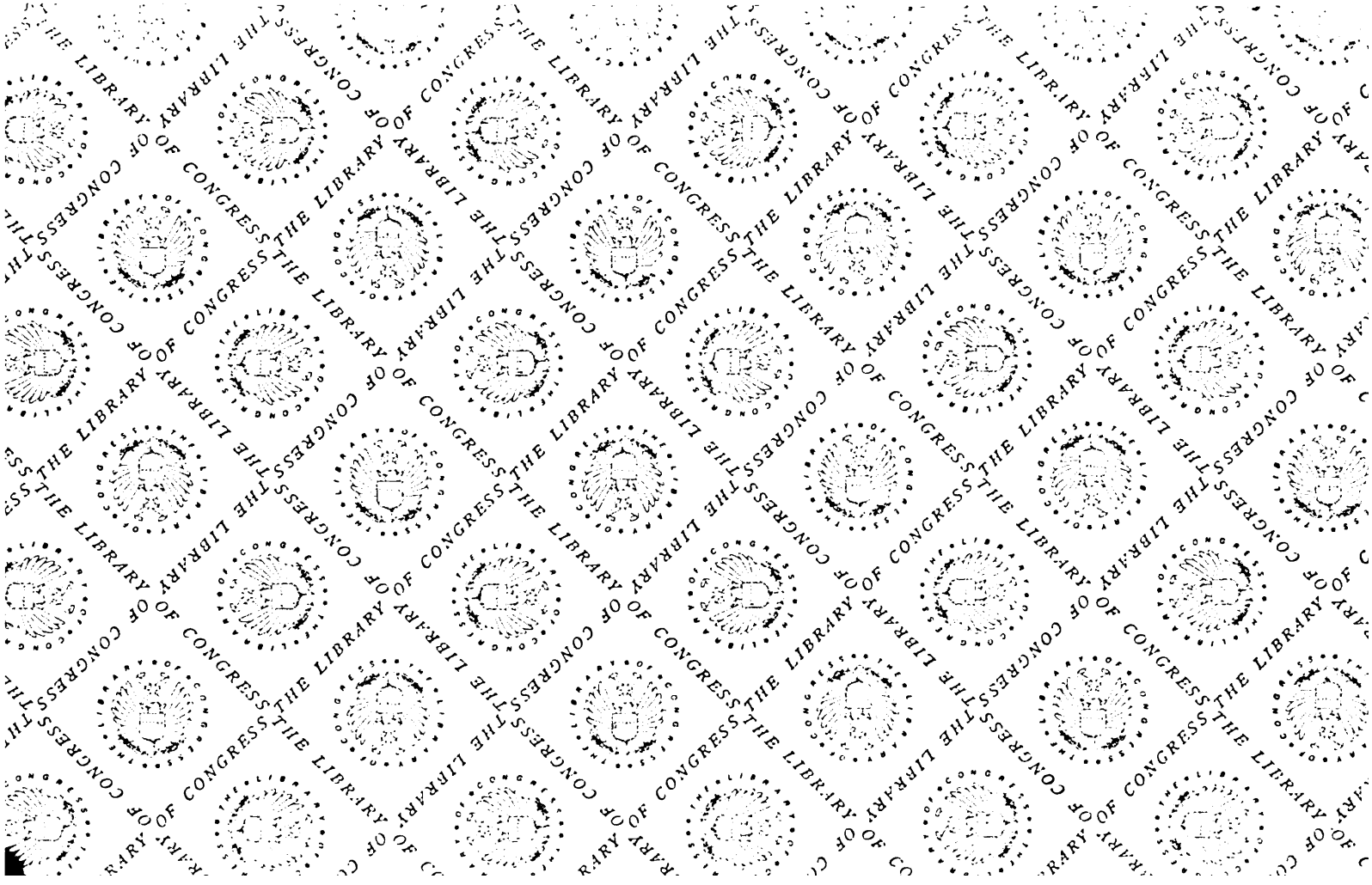
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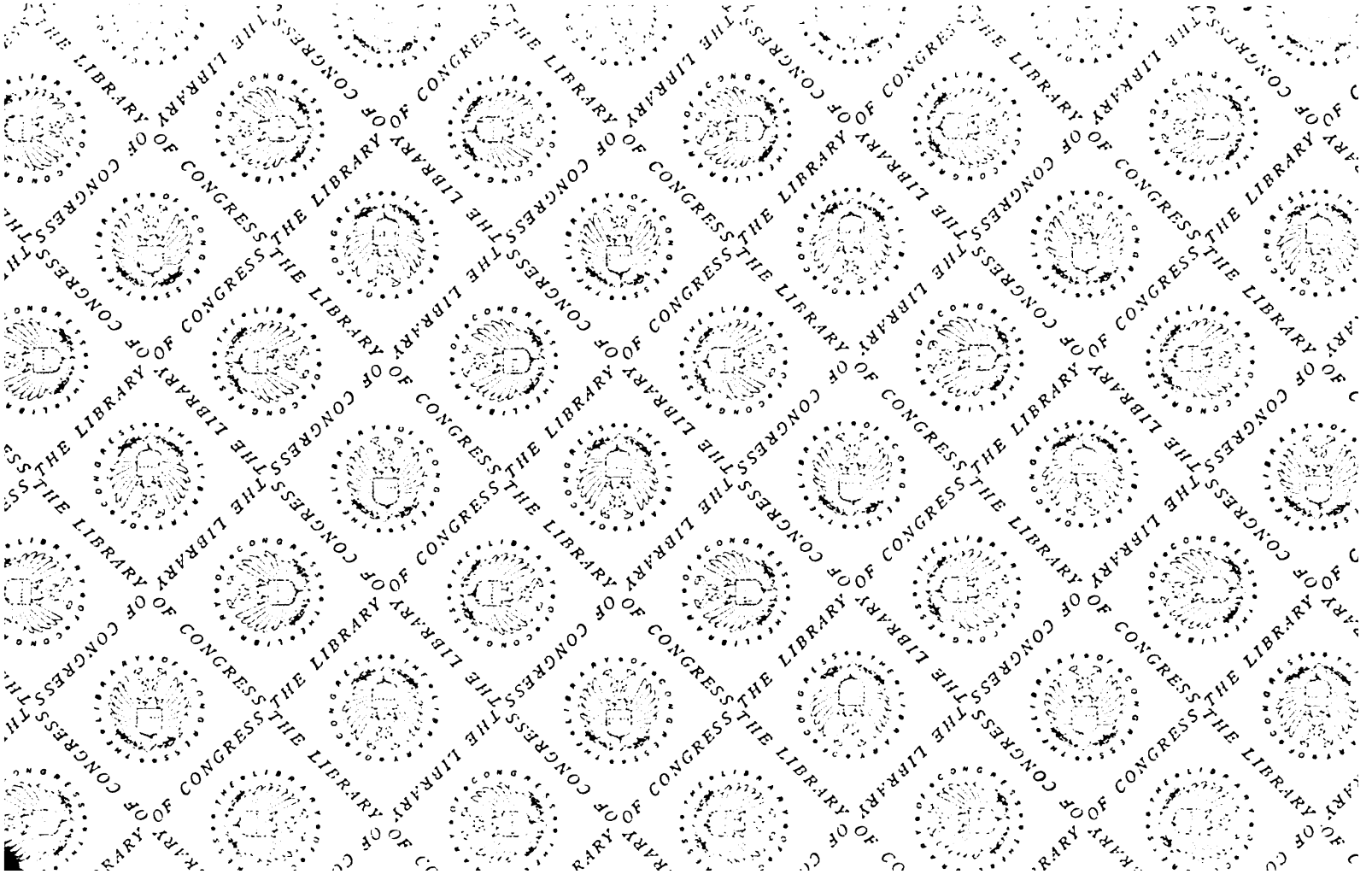
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HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

OF THE

HOUSE OF REPRESENTATIVES

ON

GRAIN INSPECTION AND GRADING BILLS

MAY 20, 1910

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HOUSE OF REPRESENTATIVES

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WASHINGTON
GOVERNMENT PRINTING OFFICE
1910

INSPECTION AND GRADING OF GRAIN, ETC.

COMMITTEE ON INTERSTATE AND
FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Washington, D. C., Friday, May 20, 1910.

The committee met this day at 10.30 o'clock a. m., Hon. Irving P. Wanger in the chair; later Hon. James R. Mann, chairman, presiding.

Mr. WANGER. The special matter this morning is a hearing on the bill (H. R. 12432) introduced by Mr. Gronna to provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes, and the bill (H. R. 16897), introduced by Mr. Pearre, to provide for fixing a uniform standard of classification and grading of wheat, flax, corn, oats, barley, rye, and other grains, and for other purposes. Who appear in behalf of these bills?

Mr. BARTLETT. Are those all the bills pending on the subject of grain inspection?

Mr. STEVENS. I think they are the same as the old bills.

Mr. ADAMSON. Mr. Gronna and others were heard at great length on these bills at the last session of Congress, were they not?

Mr. STEVENS. Yes.

Mr. JACKSON. Mr. Chairman, you are asking who appear for the bill. I know of no one for the bill, but the Baltimore Chamber of Commerce is represented here in opposition to the bill.

Mr. KING. The Philadelphia Commercial Exchange is represented here in opposition also. We have prepared briefs, which we intend to leave with you, and I think that is all we care to say in reference to it.

Mr. JACKSON. Baltimore has never had an opportunity to be heard, on account of its close proximity to Washington. Witnesses from other places who wanted to hurry away have been heard, but they always have given Baltimore representatives the tail end of the hearing, and therefore they have never had a good chance.

Mr. ADAMSON. I am in sympathy with you if you are against this.

Mr. WANGER. Suppose you proceed, gentlemen.

STATEMENT OF JOHN B. DAISH, ESQ., OF WASHINGTON, D. C., COUNSEL FOR THE BALTIMORE CHAMBER OF COMMERCE.

Mr. DAISH. Mr. Chairman and gentlemen, I appear as counsel for the Baltimore Chamber of Commerce, and what I shall say will be very brief, because a legal argument is better read than stated, because it is easier to understand and one can see the citations in reading.

The Gronna bill, I believe, is the more comprehensive of the two, and the briefs in respect to the constitutionality of the proposed measure is predicated upon what the provisions of that bill are. Briefly stated, I conceive that any scheme for the federal inspection of grain must, as to its constitutionality, be very doubtful. The object of the proposed measure is to make a particular grade or classification or kind of grain a standard. That means, first, uniformity. The time of inspection is naturally material. Inspection laws under the Constitution are reserved to the States. If the Federal Government shall undertake to inspect and grade grain while it is still the property, within the part and parcel of the property, of the State, the Federal Government would thereby infringe upon the powers reserved to the State. The question of the time of transportation with relation to the time of inspection is an important legal question to my mind. The Supreme Court recently, in the Crain Oil Company case, has decided both as to the time of the inspection and the authority of the State to provide inspection.

Mr. BARTLETT. What is that case?

Mr. DAISH. The General Oil Company *v.* Crain, in 209 U. S., at page 211. From the cases cited in the brief and from excerpts from the various cases, I conceive that either of the propositions as shown in the bill, or practically any system of federal grain inspection, is unconstitutional. As the brief is in print and as you prefer doubtless to hear from the business men who will tell you how it would affect the grain business and their markets and affect the marketing of grain both at home and abroad, I will yield to Mr. Jackson, the president of the Baltimore Chamber of Commerce. This brief will be filed.

(Following is the brief referred to:)

[Before the Committee on Interstate and Foreign Commerce, U. S. House of Representatives.]

MEMORANDUM ON THE CONSTITUTIONAL QUESTIONS INVOLVED IN THE PROPOSED FEDERAL INSPECTION OF GRAIN.

[61st Cong., 2d sess. H. R. 12432; 16697.][a]

DIGEST OF THE PROPOSED LEGISLATION.

The more comprehensive of the two bills under consideration is H. R. 12432 by Mr. Gronna; its provisions are as follows:

SECTION 1. Secretary of Agriculture to organize in Bureau of Plant Industry a section of grain inspection and grading; appoint experts and other employees necessary.

SEC. 2. Secretary to appoint one chief grain inspector and necessary assistants at sixteen named places and "other important centers" as he may consider necessary and proper.

SEC. 3. Secretary of Agriculture to fix compensation.

SEC. 4. "That the Secretary of Agriculture shall make all needful rules and regulations governing inspection and grading herein provided for."

SEC. 5. Secretary of Agriculture "to determine and fix, according to such standard as he may provide, such classifications and grading of wheat, flax, corn, rye, oats, barley, and other grains as in his judgment the usages of trade may warrant and permit." May adopt the standards now recognized by commercial usages, and may modify and change classifications or grades from time to time.

SEC. 6. Public notice to be given of standards fixed; standards fixed to be permanent record and known as "United States standard."

SEC. 7. Classification and grades fixed to be standard in all interstate commerce in grain, after thirty days' notice.

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[a] Copy of H. R. 12432 by Mr. Gronna appears in the Appendix hereof.

SEC. 8. Duties of transportation agencies to notify chief grain inspector at place of destination within twenty-four hours after arrival.

Unlawful to willfully unload or discharge grain which has at any time during the period of its transit been an article of interstate commerce, and which has not been inspected as provided by the act.

Upon receipt of notice inspector shall inspect and grade grain in accordance with the standard, and deliver certificate of inspection in such form as Secretary of Agriculture may prescribe.

SEC. 9. Duties of inspectors to inspect and grade grain which at the time of inspection has been shipped from one State, Territory, or country to another, or is intended for shipment into another State, Territory, or country, before same is unloaded from vehicle in which it was or is being transported; also duty to charge and collect fees as may be fixed by the Secretary of Agriculture according to rules made by him; fees to produce sufficient revenue only to meet the necessary expenses of the inspection service; fees to be paid into the Treasury as miscellaneous receipts.

SEC. 10. Inspectors prohibited from being interested in grain business or to be in the employ of corporation interested in said business.

SEC. 11. Appeal provided for party interested in grain to chief inspector, and from chief inspector to Secretary of Agriculture, under rules made by Secretary.

SEC. 12. Mixed grain, being mixture of inspected grain and uninspected grain, or grain of different grades, shall not be shipped out of the State where the mixing is done without reinspection and grading; offense, misdemeanor.

SEC. 13. Prohibition of shipment of grain to another State or foreign country without inspection; grain once inspected may not be reinspected, but Secretary may in his discretion reinspect cargo before exportation.

SEC. 14. Inspectors to investigate the handling and weighing of grain inspected; inspection of weighing and handling to be permitted by those weighing grain.

SEC. 15. "Sample grain" may be inspected and graded.

SEC. 16. Willfully doing any act prohibited or willfully neglecting or refusing to do things required by the act is a misdemeanor; punishment, fine not to exceed $5,000, or by imprisonment not to exceed one year, or both.

SEC. 17. Salaries and necessary expenses appropriated out of the Treasury, $850,000.

SEC. 18. Act takes effect July 1, 1910.

I.

THE PURPOSE AND OBJECT OF THE PROPOSED LEGISLATION.

(*a*) *The real object of the legislation.*

The purpose and object of the legislation is not apparent from a review of the provisions of the proposed law. To ascertain the real object one must secure evidence aliunde. It has been stated that the purpose of the proposed law is to benefit the agricultural producer of grain; that at the present time the purchaser of the farmer's grain does not grade it as high as it should be—in short, that grain which actually grades No. 2 is bought by some country elevator men as No. 3 in grade and at the No. 3 price.

It is significant that the demand for a correction of this alleged abuse exists in a small portion of the country. Admitting for the present that such abuse exists, I can not see how the Federal Government is authorized under any of the powers granted to it to remedy the abuse said to exist. The abuse, if it be an abuse, is purely one of contract, barter, and sale between parties, citizens of the same State, over personal property subject solely to the sovereignty of the State.

(*b*) *The apparent object of the legislation.*

The proposed legislation on its face attempts to provide that the inspection of grain shall be under one central authority at Washington, and that the several kinds, classes, and grades shall be the same throughout the United States and even in foreign countries. The apparent object is to make a bushel of No. 2 red winter wheat (or other grade), wherever grown, or wherever found, as standard as a five-dollar gold piece.

These observations may seem inappropriate in a memorandum of this character, but it is submitted that the test of the validity of a proposed statute is not its apparent but its real object; the real object having been ascertained, it then remains to be

determined whether it is within the scope of the legislative power; the end, as well as the means employed, must receive consideration.

Yick Wo *v.* Hopkins, 118 U. S., 336.
Morgan's L. & T. R. & S. S. Co. *v.* Louisiana Bd. of Health, 118 U. S., 455.
United States *v.* Fox, 95 U. S., 670.
Minnesota *v.* Barber, 136 U. S., 313.
Henderson *v.* New York, 92 U. S., 259.
New York *v.* Miln, 11 Pet., 103.
The Passenger Cases, 7 How., 283.
Re Rapier, 143 U. S., 110.

II.

THE OBJECT OF INSPECTION LAWS.

'The object of inspection laws is to protect the community, so far as they apply to domestic sales, from fraud and imposition; and in relation to articles designed for exportation, to preserve the character and reputation of the State in foreign markets" (22 Cyc., 1346).

Turner *v.* State, 55 Md., 240.
Territory *v.* Ry. (N. M.), 78 Pac., 74.
Clintsman *v.* Northrop, 8 Cow. (N. Y.), 45.
Cin'ti Gas Co. *v.* State, 18 Ohio St., 237.
Neilson *v.* Garza, 17 Fed. Cas. No. 10091; 2 Woods, 287.
Gibbons *v.* Ogden, 9 Wheat., 1 (see Appendix hereof).
People *v.* Harper, 91 Ill., 357.

"They are also incidentally designed to protect manufacturers and vendors themselves against unfounded and unjust claims of vendees and consumers" (22 Cyc., 1364).

Cin'ti Gas Co. *v.* State, 18 Ohio St., 237.

III.

WHAT IS INSPECTION?

"Inspection is the examination of certain articles made by law subject to such examination, so that they may be declared fit for commerce" (Bouvier L. Dic.).

People *v.* Campagnie, etc., 10 Fed., 357, 362.
Neilson *v.* Garza, 17 Fed. Cas. 10091; 2 Woods, 287, 290.

Burrill defines it as "official view or examination of commodities or manufactures, to ascertain their quality under some statute requiring it." Anderson's definition: "An official examination of articles of food or of merchandise, to determine whether they are suitable for market or commerce."

"Something which can be accomplished by looking at or weighing or measuring the thing to be inspected, or applying to it at once some crucial test."

State *v.* McGongh, 118 Ala., 159, 167.
People *v.* Campagnie, etc., 107 U. S., 59.

IV.

THE RIGHT TO PASS INSPECTION LAWS BELONGS TO THE STATES, UNDER THEIR POLICE POWERS.

"The right to pass inspection laws is not granted to Congress, and consequently remains subject to state legislation." (22 Cyc., 1364.)

Gibbons *v.* Ogden, 9 Wheat., 1 (see Appendix hereof).
U. S. *v.* Boyer, 85 Fed., 425 (see Appendix hereof).
Patapsco *v.* Garza, 17 Fed. Cas., 10091; 2 Woods, 287.

Inspection is an incident of the police power.

People *v.* Harper, 91 Ill., 357.
Territory *v.* R. R. (N. M.), 78 Pac., 74.

The power of state inspection is, however, subject to the paramount right of Congress under the commerce clause of the Constitution. That is, state inspection laws may infringe the federal right to regulate commerce, just as the federal power to regulate commerce may invade the state right within proper grounds; i. e., within the reasonable limitations of the police power the authority of the State is supreme.

Neilson *v.* Garza, 17 Fed. Cas. 10091; 2 Woods, 287.
Gibbons *v.* Ogden, 9 Wheat., 203.
Turner *v.* Maryland, 107 U. S., 38.
Neilson *v.* Garza, 17 Fed. Cas., 1007; 2 Woods, 287.

The decision of the Supreme Court in General Oil Co. *v.* Crain, inspector (209 U. S., 211), sustaining a Tennessee statute providing for inspection of oil even as against the right of the Federal Government over interstate commerce, is a reiteration of the right of a State to pass and enforce inspection laws.

V.

UNDER WHAT FEDERAL GRANT CAN CONGRESS PROVIDE FOR THE FEDERAL INSPECTION OF GRAIN?

That Congress could provide for the inspection of grain, when purchased by the Government, is not controverted, nor that it could provide for the inspection of grain in that territory over which Congress exercises exclusive jurisdiction. The state inspection laws have invariably been sustained under the police powers of the State (Tiedeman, Limitations of the Police Power; Patapsco Guano Co. *v.* Board of Agric., 171 U. S., 343; Appendix hereof).

The authority of the States to pass inspection laws is set forth in the Constitution:

"No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for exercising its inspection laws." (Art. I, sec. 10, cl. 2.)

The framers of the Constitution seem clearly to have reserved to the States the right to pass inspection laws, and the right of the State to charge therefor, such charges being subject to the revision of Congress; and the courts have held that fees for inspection in excess of the cost thereof, or appropriated for other purposes, are subject to the revision of the Congress.

General Oil Co. *v.* Crain, 209 U. S., 211.
Neilson *v.* Garza, 17 Fed. Cas. No. 10091; 2 Woods, 287.
Gibbons *v.* Ogden, 9 Wheat., 203.
Turner *v.* Maryland, 107 U. S., 38.
Neilson *v.* Garza, 17 Fed. Cas. 1007; 2 Woods, 287.

(*a*) *There is no police power of the Federal Government.*

The police power in our American system has been left wholly within the individual States, and the Congress has no power, expressly or by implication, to take away any or all of it. (U. S. *v.* De Witt, 9 Wall., 41.)

"This police power of the State extends to the protection of the life, limbs, health, condition, and equality of all persons and the protection of all property within the State." (Redfield, Ch. J., in Thorp *v.* R. R., 27 Vt., 140, 149.)

(*b*) *General welfare clause.*

The suggestion that Congress might, under the "general welfare clause," enact the proposed legislation can be easily dismissed, for it has been repeatedly held that the words "to pay the debts and provide for the general welfare" do not confer any distinct and substantial power on the Congress (U. S. *v.* Boyer, 85 Fed., 425; Appendix hereof). Story, in his work on the Constitution (sec. 906, seq.) has demonstrated that the clause "to provide for the general welfare" contains no grant of power, and, in truth, is only part of the power of taxation.

(*c*) *The congressional power of taxation.*

It is submitted that by no possible construction of the proposed law can it be deemed to fall within the power of Congress "to lay and collect taxes, duties, imposts, and excises;" nor does it appear to be in any view of the plan a revenue measure.

If the fees to be charged for inspection should furnish a revenue, or if it be a revenue measure, it is submitted that as fees are to be charged on export grain it falls within the prohibitions of Article I, section 9, clause 5, of the Constitution:

"No taxes or duties shall be laid on articles exported from any State."

The object of this prohibition was to preclude interference with exports by Congress (Documentary His. Constitution, vol. 3, pp. 542–545, 578–580; Hylton *v.* U. S., 3 Dall., 171).

If the stamp tax imposed on foreign bills of lading is in effect a tax or duty upon exports, and therefore void (Almy *v.* Cal., 24 How., 174; Fairbank *v.* U. S., 181 U. S., 305), much stronger is the proposition to tax the goods themselves, when about to be exported.

While this provision of the Constitution is a positive prohibition against taxing exports, the Supreme Court has sustained some statutes providing for stamping of

articles intended for exportation. The purpose of such statutes has been two-fold—(*a*) to identify or mark articles which are intended for exportation, thereby (*b*) relieving them from internal taxation.

In Pace *v.* Burgess (92 U. S., 375), involving the constitutionality of an act requiring that tobacco intended for export bear a stamp (act July 20, 1868, and June 6, 1872), the Supreme Court gave consideration to the purposes of the acts and said:

"The stamp was intended for no other purpose than to separate and identify the tobacco which the manufacturer desired to export and thereby, instead of taxing it, to relieve it from the taxation to which the other tobacco was subjected. It was a means devised to prevent fraud, and secure the faithful carrying out of the declared intent with regard to the tobacco so marked."

A similar act (act August 8, 1892) was considered by the court in Turpin *v.* Burgess (117 U. S., 504). The facts of that case are materially different from those which apply in the proposed federal inspection of grain, and particularly in respect to the time when the goods intended for export shall be the subject of federal action. Referring to the provisions concerning stamping of tobacco intended for export the court said:

"The tax (if it was a tax) was laid upon the goods before they left the factory. They were not in course of exportation; they might never be exported; whether they would be or not would depend altogether on the will of the manufacturer. Had the excise which was laid upon all other tobacco manufactured by the plaintiffs been laid on the tobacco in question, they could not have complained. But it was not. A special indulgence was granted to them (in common with others), in reference to the particular tobacco which they declared it to be their intention to export."

The present bill proposes that the grain shall be exported at the seaboard, at a time when it can clearly be said to be "in the course of exportation." There is no provision by which grain for export shall be classified or separated from other grain.

(*d*) *The commerce clause.*

While under Article I, section 8, clause 3, Congress has been sustained in going very great lengths, particularly in reference to business matters among the States—as, for example, in matters relating to telegraphic communications (Pensacola Tel. Co. *v.* W. U. Tel. Co., 96 U. S., 1; Tel. Co. *v.* Texas, 105 U. S., 460; W. U. Tel. Co. *v.* James, 162 U. S., 650), carriage of lottery tickets (Champion *v.* Ames, 188 U. S., 321), transfer of railway shares of competing companies (Northern Securities Co. *v.* U. S., 193 U. S., 197), the use and sale of trade-marks (Trade-mark Cases, 100 U. S., 82)—it is submitted that in view of the bill under consideration can inspection be considered to be a regulation of commerce? The interpretation of this power granted to the Federal Government from Gibbons *v.* Ogden (9 Wheat., 1) to the latest decision of the Supreme Court has never extended beyond the making of such rules and regulations governing commerce among the States as Congress in its wisdom might see fit. It is submitted that the inspection of goods is not traffic, is not commercial intercourse, is not commerce, even in its most comprehensive sense. The greatest limit to which, in my judgment, one can safely go is to say that inspection is an incident of commerce; as an incident it is not subject to regulation of the Federal Government. (Nutting *v.* Mass., 183 U. S., 553.)

Congress may regulate the instrumentalities by which commerce among the several States is carried on, but the inspection of commodities—the examination of them—is not an instrumentality of commerce. As an incident of commerce the subject falls clearly within the reserved powers of the States. (Allgeyer *v.* Louisiana, 165 U. S., 578.)

VI.

WHEN DOES AN ARTICLE BECOME AND CEASE TO BE INTERSTATE OR FOREIGN COMMERCE?

It is necessary to determine this question, because the element of time, while not controlling, is influential. When an article intended for interstate or foreign commerce has been segregated from the body of the property within a State so as to fall within the purview of the commerce clause of the Constitution, Congress may provide such rules and regulations relating to the commerce thereof as it may think needful. Assuming that the inspection of goods falls within the commerce clause of the Constitution—a very rash assumption, for, as heretofore shown, inspection is at most but an incident of commerce—the time at which the Federal Government may take action must be clearly designated. Hence the necessity for determining—

1. When does a shipment become interstate commerce? A review of all the decisions necessarily leads to the conclusion that whenever property has begun to move

as an article of commerce, from a point in one State to a point in another State, then it becomes the subject of interstate commerce and is under the power of the Congress to regulate it. (Gilman *v.* Philadelphia, 3 Wall., 724; The Daniel Ball, 10 Wall., 557; Coe *v.* Errol, 116 U. S., 517; R. R. *v.* Penna., 136 U. S., 114; R. R. *v.* Penna., 145 U. S., 192; U. S. *v.* Knight, 156 U. S., 13.)

The movement does not begin until the articles have been shipped or started in their transportation (Coe *v.* Errol, supra); the preparation of the article for transportation is not sufficient (U. S. *v.* Boyer, 85 Fed., 425); nor the intent to transport (Coe *v.* Errol, supra); it must be actually delivered to the carrier for transportation (U. S. *v.* Boyer; Appendix hereof.)

2. And when do the goods cease to be the subject of interstate commerce? The law upon this subject is, that when the goods have been so acted upon that they have been incorporated in or mixed with other property of the State they cease to be subject to the regulation of the Congress. (Gibbons *v.* Ogden, Appendix; Brown *v.* Md., 12 Wheat., 419; Welton *v.* Mo., 91 U. S., 275; Howe Mach. Co. *v.* Gage, 100 U. S., 676; Tierman *v.* Rinker, 102 U. S., 123; Brown *v.* Houston, 114 U. S., 622; Robbins *v.* Shelby County Taxing Dist., 120 U. S., 489; Emert *v.* Mo., 156 U. S., 296.) Some decisions hold that the shipment is incorporated into the property of the State when it has been delivered to the consignee. (Bowman *v.* R. R., 125 U. S., 456; Rhodes *v.* Iowa, 170 U. S., 412; Leisy *v.* Hardin, 135 U. S., 100; Vance *v.* Vandercook, 170 U. S., 438.) Some decisions go so far as to hold that it is required that some of the goods shall have been sold after they have arrived within the State of their destination; it is doubted, however, that sale is a requirement, but it is clear that a sale of a part or all of the goods in the State where they are destined and delivered destroys their character as interstate commerce.

In General Oil Company *v.* Crain (209 U. S., 211, 228) the Supreme Court recently reviewed the decisions on this point and said:

"The beginning and ending of the transit which constitutes interstate commerce are easy to mark. The first is defined in Coe *v.* Errol (116 U. S., 517) to be the point of time that an article is committed to a carrier for transportation to the State of its destination, or started on its ultimate passage. The latter is defined to be, in Brown *v.* Houston (114 U. S., 622), the point of time at which it arrives at its destination. But intermediate between these points questions may arise. (State, Detmold, Prosecutor, *v.* Engle, 34 N. J. L., 425; State, Lehigh & W. Coal Co., Prosecutors, *v.* Carrigan, 39 N. J. L., 35; The Daniel Ball, 10 Wall., 557.)"

In short, under the most favorable interpretation it appears from the cases that goods can not become subjects of interstate commerce prior to the time they are loaded upon vehicles for the purpose of transporting them to another State, if in fact the time is not postponed until the actual movement begins; and that they remain interstate commerce and are subject to federal control until they come into the possession, actual or constructive, of the consignee, if not in fact until the time of the sale thereof, in whole or in part.

The bill is not definite concerning the exact place of inspection, although it appears that inspection must be at destination, for it is provided that it is the duty of inspectors to "inspect and grade all grain which at the time of inspecting and grading of same has been shipped from any other State, Territory, or country than the State, Territory, or country in which the same is inspected." So, also, the grain is to be inspected if it is "intended for shipment into any other State, Territory, or foreign country before the same is unloaded," etc.

As the jurisdiction of the State attaches on the arrival of the commodity at destination (Brown *v.* Houston, 114 U. S., 622), it can not be conceived what rights (of inspection or any other) the Federal Government can exercise in respect thereto.

VII.

DELEGATION OF LEGISLATIVE AUTHORITY.

The pending bill provides: "That the Secretary of Agriculture shall make all needful rules and regulations governing the inspection and grading herein provided for." This, I believe, attempts to delegate to an executive officer the legislative power confided to the Congress alone.

"One of the settled maxims of constitutional law is that the power conferred upon the legislature to make laws can not be delegated by that department to any other body or authority. Where the sovereign power of the State has located the authority, there it must remain, and by the constitutional agency alone the law must be made until the Constitution itself be changed. The power to whose judgment, wisdom, and patriotism this high prerogative has been intrusted can not relieve itself of the

responsibility by choosing other agencies upon which the power shall be devolved, nor can it substitute the judgment, wisdom, and patriotism of any other body for those to which alone the people have seen fit to confide this sovereign trust." (Cooley, Cons. Lim., p. 163.)

In Field *v.* Clark (143 U. S., 649) the court said:

"That Congress can not delegate legislative power to the President is a principle universally recognized as vital to the integrity and maintenance of the system of government ordained by the Constitution. * * * 'The true distinction,' as Judge Ranney, speaking for the supreme court of Ohio, has well said, 'is between the delegation of power to make the law, which necessarily involves the discretion as to what it shall be, and conferring authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first can not be done; to the latter no valid objection can be made.'"

I am not unmindful of the case of Buttfield *v.* Stranahan (192 U. S., 471), but it is submitted that the present proposition for federal inspection of grain does not contain the elements or characteristics of the act to prevent the importation of impure and unwholesome tea (approved March 2, 1897, 29 Stat. L., 604, chap. 358). The two so radically differ in their purposes and provisions that the decision of the court in the latter can serve as no guide for the former.

That legislative power can not be delegated, see Sutherland (Notes to Cons., pp. 677–685); Thorne *v.* Cramer (15 Barb., 112); Bradley *v.* Baxter (15 Barb., 122); Barto *v.* Himrod (8 N. Y., 483); People *v.* Stout (23 Barb., 349); Rice *v.* Foster (4 Harr., 479); Santo *v.* State (2 Iowa, 165); Geebrick *v.* State (5 Iowa, 91); State *v.* Beneke (9 Iowa, 203); State *v.* Weir (33 Iowa, 134); People *v.* Collins (3 Mich., 343); R. R. *v.* Com., etc. (1 Ohio St., 77); Parker *v.* Com. (6 Pa. St., 507); Com. *v.* McWilliams (11 Pa. St., 61); Maize *v.* State (4 Ind., 342); State *v.* Parker (26 Vt., 357); Meshmeir *v.* State (11 Ind., 482); State *v.* Swisher (17 Tex., 441); State *v.* Copeland (3 R. I., 33); State *v.* Wilcox (45 Mo., 458); Com. *v.* Locke (72 Pa. St., 491); Ex parte Wall (48 Cal., 279); Willis *v.* Owen (43 Tex., 41); Farnsworth *v.* Lisbon (62 Me., 451); Brewer Brick Co. *v.* Brewer (62 Me., 62); State *v.* Hudson Co. Com. (37 N. J., 12); Auditor *v.* Holland (14 Bush., 147); State *v.* Simons (32 Minn., 540); Bradshaw *v.* Lankford (73 Md., 428); Owensboro, etc., R. Co. *v.* Todd (91 Ky., 175).

VIII.

THE PROHIBITION OF USING OTHER CLASSIFICATIONS AND GRADES.

Early in the history of the proposed federal denomination of grades, and, in fact, until a very recent time, it was proposed that the federal grades should be permissive; that is, buyer and seller might agree that the federal grade should be the standard in their transactions. The pending measure prohibits the transportation of grain unless it has been inspected (sec. 13).

It is respectfully submitted that it does not lie within the powers of a State (or the United States, if its power for the general purpose be conceded) to prohibit the use of other standards than those laid down by the legislature. Sales "by sample" would be impossible.

Tiedeman, speaking generally of inspection laws, says that they are constitutional exercise of the police power of the States "so far as they permit one party to compel the other to comply with the regulations, in the absence of their agreement to the contrary. For example, it is permissible for a statutory regulation to provide for standard weights and measures, and to compel their use, when the parties have not agreed upon the use of others. But it can not be reasonable to prohibit the use of any other mode of measurement. It is an excessive exercise of police power when the law compels one to make use of the means provided for his own protection against fraud. The same distinction would apply to regulations requiring the inspection and weighing of articles of merchandise by the inspector and weigher, and charging a fee even when the parties have agreed in good faith to the waive compliance with the regulation." (Tiedeman, Limitations of the Police Power, citing Eaton *v.* Keegan, 114 Mass., 433.)

IX.

IS THE PROPOSED LEGISLATION "CLASS LEGISLATION?"

It is suggested that should Congress provide for the inspection of certain kinds of grain it should provide as well for the inspection of all grain, and having provided for the inspection of all grain should provide for the inspection of all other commodities transported among the States or foreign nations. This particular point, however, is one more of legislative policy than relating to the power of Congress in the premises.

X.

THE PORT PREFERENCE CLAUSE.

"No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State be obliged to enter, clear, or pay duties in another."

The pending bill specially denominates certain natural ports at which inspectors shall be installed and leaves to the Secretary of Agriculture the selection of other ports.

Quære: Should the Secretary select some of the natural ports and omit to provide for inspectors at others, would this constitutional provision be violated?

The object of this provision is to restrain Congress from fostering or oppressing one port or the commerce of one State (Munn *v.* Ill., 94 U. S., 135; Passenger Cases, 7 How., 383), to prevent discriminations between the States (Pa. *v.* Wheeling Bridge, 18 How., 435), it being intended to preserve the commercial equality of the States, and any legislation tending to destroy such equality is by the provision prohibited (Passenger Cases, 7 How., 283).

XI.

UNITED STATES INSPECTION LAWS.

It will doubtless be suggested that there are in force and effect federal inspection laws. A list of these is to be found in the appendix. Of these it is sufficient to say that they either fall under distinct grants to the Federal Government, which are inapplicable to the inspection of articles of commerce, or when their constitutionality has been attacked the courts have held them void.

XII.

ACTIVITY OF THE STATES.

The States have always guarded the rights of their citizens as far as the inspection of commodities is concerned, even before they were States. In the appendix will be found a list of the state inspection laws from the earliest colonial legislation, a list of commodities now subject to inspection under state regulation, and a digest of the laws of those States which provide for the inspection of grain. The States which by statute now provide for the inspection of grain are: Illinois, Kansas, Missouri, Minnesota, Wisconsin, and Indiana. The provisions vary greatly, some authorizing boards of trade to appoint inspectors (Indiana), others appointing these officials through the machinery of a state railroad and warehouse commission (Illinois).

XIII.

The penalties of the bill—fine of $5,000, or imprisonment for a year, or both—seem to fall within the case Ex parte Edward T. Young, petitioner (209 U. S., 123), and therefore unconstitutional on the ground that excessive fines and penalties are imposed.

CONCLUSIONS.

In conclusion it is submitted—

1. That the right to enact inspection laws is by the Constitution clearly reserved to the States;
2. That the States, since the foundation of the Government and up to the present time, have been active in enacting such inspection laws as the wisdom of the several state legislatures dictated;
3. That the said power to enact inspection laws falls within the police power of the States;
4. That there is no federal police power;
5. That Congress can not either under the "general-welfare" clause or the "power to lay and collect taxes" or the "commerce clause" constitutionally provide for the inspection of commodities, even though the commodities be at the time of inspection articles of interstate commerce, because inspection does not fall within those rules and regulations which Congress is authorized to enact, as inspection is a mere incident of commerce;
6. That, as the pending bill proposes to lay inspection fees upon experts, the proposition falls within the prohibition of the Constitution concerning taxes on exports;
7. That the present proposition attempts to confer legislative power upon a federal executive officer;

8. That a plan which prohibits the use of other standards of grading and classification is an unwarranted restraint of the inalienable rights of the individual;
9. That the present plan would probably result in a violation of the "port preference clause" of the Constitution, and,
10. That the penalties of the bill are violative of the constitutional provision respecting excessive fines.

Respectfully submitted.

JOHN B. DAISH,
Of Counsel Baltimore Chamber of Commerce.

WASHINGTON, D. C., *May 20, 1910.*

NOTE.—The Appendix contains excerpts from The U. S. *v.* Boyer; Patapsco Guano Co. *v.* Board of Agriculture; Present Federal Inspection Laws; Digest of State Grain Inspection Laws; List of State Inspection Laws, etc.

APPENDIX.

GIBBONS *v.* OGDEN.

In Gibbons *v.* Ogden (9 Wheat., 1, 203), the court says:

"But the inspection laws are said to be regulations of commerce, and are certainly recognized in the Constitution as being passed in the exercise of a power remaining with the States.

"That inspection laws may have a remote and considerable influence on commerce will not be denied; but that a power to regulate commerce is the source from which the right to pass them is derived, can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of the country; to fit them for exportation, or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component parts of this mass.

"No direct general power over these objects is granted to Congress; and, consequently, they remain subject to state legislation."

This doctrine was cited and applied in Turner *v.* Maryland (107 U. S., 50), holding that statute of Maryland relating to inspection of tobacco before exportation was constitutional; S. C. (p. 54), holding all such laws are subject to the revision and control of Congress; Bowman *v.* Chicago R. R. Co. (125 U. S., 488), holding that a state law prohibiting importation of liquor without a certificate that consignee was licensed dealer was not an inspection law, but a regulation of commerce and unlawful; Leisy *v.* Hardin (135 U. S., 113), holding a state law prohibiting sale of imported liquors by the importer except in unbroken packages void; Voight *v.* Wright (141 U. S., 65), holding state law of Virginia requiring inspection of imported flour void as discriminating in favor of home-made flour; Patapsco Guano Co. *v.* North Carolina (171 U. S., 356), sustaining state law for the inspection of fertilizers imposing a charge per ton to defray costs of inspection; New York *v.* Compagnie Gen. Transatlantique (20 Blatchf., 303), holding state laws for inspection of alien immigrants not inspection laws in sense of the Constitution; United States *v.* Bain (3 Hughes), classing inspection laws among the subjects of legislation left to state control; In re Wong Yung Quy (6 Sawy., 447), holding statute of California relating to disinterment and removal of Chinese corpses not in conflict with National Constitution; Corfield *v.* Coryell (4 Wash. C. C., 380), holding by analogy that New Jersey oyster law of 1820 was constitutional; Neilson *v.* Garza (2 Woods), holding inspection laws of Texas of 1871-1874 constitutional; Swift *v.* Sutphin (39 Fed., 637), holding Minnesota statute, effect of which was to prohibit importation of any fresh meat, violate of the Constitution; In re Barber (39 Fed., 650), holding Indiana statute, in effect prohibiting import of dressed meat, unconstitutional; United States *v.* Boyer (85 Fed., 435), holding that congressional law for inspection, before slaughter, of animals intended for export not within constitutional power to regulate commerce; State *v.* Coal Co. (41 La. Ann., 471), holding that as regards inspection laws quantity was as legitimate subject as quality; Turner *v.* State (55 Md., 264), holding State could regulate dimensions of packages, require their delivery at state warehouses for inspection, and impose charges to cover

the cost of inspection; Moore *v.* State (48 Miss., 170), commenting on the quarantine and police powers of State, the court holding the State could legislate to prohibit lotteries; Scott *v.* Wilson (3 N. H., 327), arguendo, that state law to prevent damage from floating timber loose down the Connecticut River did not affect to regulate commerce; Smith *v.* State (100 Tenn., 499), sustaining state law for separate railroad accommodation for white and colored races as a valid police regulation; St. Louis, etc., Ry. Co. *v.* Smith (49 S. W., 631), upholding state inspection as respecting importation of diseased cattle.

PATAPSCO GUANO CO. *v.* BOARD OF AGRICULTURE.

In Patapsco Guano Co. *v.* Board of Agriculture of North Carolina (171 U. S., 343), the Chief Justice, writing the majority opinion, said:

"Inspection laws are not in themselves regulations of commerce, and while their object frequently is to improve the quality of articles produced by the labor of a country and fit them for exportation, yet they are quite as often aimed at fitting them, or determining their fitness, for domestic use, and in so doing protecting the citizen from fraud. Necessarily, in the latter aspect, such laws are applicable to articles imported into as well as to articles produced within a State.

"Clause 2 of section 10 expressly allows the State to collect from imports as well as exports the amounts necessary for executing its inspection laws, and Chief Justice Marshall expressed the opinion in Brown *v.* Maryland that imported as well as exported articles were subject to inspection.

"The observations of Mr. Justice Bradley, on circuit, in Neilsen *v.* Garza, are quite apposite on this and other points under discussion, and may profitably be quoted.

"That case involved the validity of a law of the State of Texas, providing for the inspection of hides, and Mr. Justice Bradley said:

"'If the state law of Texas, which is complained of, is really an inspection law, it is valid and binding unless it interferes with the power of Congress to regulate commerce, and if it does thus interfere, it may still be valid and binding until revised and altered by Congress. The right to make inspection laws is not granted to Congress, but is reserved to the States; but it is subject to the paramount right of Congress to regulate commerce with foreign nations, and among the several States; and if any State, as a means of carrying out and executing its inspection laws, impose any duty or impost on imports or exports, such impost or duty is void if it exceeds what is absolutely necessary for executing such inspection laws. How the question whether a duty is excessive or not is to be decided may be doubtful. As that question is passed upon by the state legislature when the duty is imposed, it would hardly be seemly to submit it to the consideration of a jury in every case that arises. This might give rise to great diversity of judgment, the result of which would be to make the law constitutional one day and in one case, and unconstitutional another day in another case. As the article of the Constitution which prescribes the limit goes on to provide that "all such laws shall be subject to the revision and control of Congress," it seems to me that Congress is the proper tribunal to decide the question whether a charge or duty is or is not excessive. If, therefore, the fee allowed in this case by the state law is to be regarded as in effect an impost or duty on imports or exports, still, if the law is really an inspection law, the duty must stand until Congress shall see fit to alter it.

" 'Then we are brought back to the question whether the law is really an inspection law. If it is, we can not interfere with it on account of supposed excessiveness of fees. If it is not, the exaction is clearly unconstitutional and void, being an unauthorized interference with the free importation of goods. The complaint contends that it is not an inspection law; that inspection laws only apply legitimately to the domestic products of the country, intended for exportation; and that no inspection is actually required in this particular case, but a mere examination to see if the hides are marked, and who imported them, etc., duties which belong to the entry of goods and not their inspection.

" 'No doubt the primary and most usual object of inspection is to prepare goods for exportation in order to preserve the credits of our exports in foreign markets. Chief Justice Marshall, in Gibbons *v.* Ogden, says: "The object of inspection laws is to improve the quality of articles produced by a labor of a country; to fit them for exportation, or, it may be, for domestic use." (9 Wheat., 203; Story, Const., sec. 1017.) But in Brown *v.* Maryland he adds, speaking of the time when inspection takes place: "Inspection laws, so far as they act upon articles for exportation, are generally executed on land before the article is put on board a vessel; so far as they act upon importations, they are generally executed upon articles which are landed. The tax or duty of inspection is a tax which is frequently, if not always, paid for service performed on land."

(12 Wheat., 419; Story, Const., sec. 1017.) So that, according to Chief Justice Marshall, imported as well as exported goods may be subject to inspection; and they may be inspected as well to fit them for domestic use as for exportation.

"'All housekeepers who are consumers of flour know what a protection it is to be able to rely on the inspection mark for a fine or superior article. Bouvier defines inspection as the examination of certain articles made by law subject to such examination, so that they may be declared fit for commerce. (Law Dict., verb, "Inspection.") "The removal or destruction of unsound articles is undoubtedly," says Chief Justice Marshall, "an exercise of that power." (Brown *v.* Maryland, supra; Story, Const., sec. 1024.) "The object of the inspection laws," says Justice Sutherland, "is to protect the community, so far as they apply to domestic sales, from frauds and impositions; and in relation to articles designed for exportation to preserve the character and reputation of the State in foreign markets." Clintsman *v.* Northrop (8 Cow., 46). It thus appears that the scope of inspection laws is very large and is not confined to articles of domestic produce or manufacture or to articles intended for exportation, but applies to articles imported, and to those intended for domestic use as well.'

"But in Turner *v.* Maryland (107 U. S., 38), which related only to the laws of Maryland so far as providing for the preparation for exportation of tobacco grown in the State, any opinion as to the provisions of those laws referring to the inspection of tobacco grown out of Maryland was expressly reserved.

"In Voight *v.* Wright (141 U. S., 62, 66), a statute of Virginia relating to the inspection of flour brought into that Commonwealth was held to be unconstitutional, because it required the inspection of flour from other States when no such inspection was required of flour manufactured in Virginia, an objection to which the act under consideration is not open, for the inspection and payment of its cost are required in respect of all fertilizers, whether manufactured in the State or out of it, and it is conceded that fertilizers are manufactured in North Carolina, as, indeed, their many laws incorporating companies for the purpose of so doing plainly indicate. Mr. Justice Bradley in that case remarked that the question was 'still open as to the mode and extent in which state inspection laws can constitutionally be applied to personal property imported from abroad, or from another State, whether such laws can go beyond the identification and regulation of such things as are strictly injurious to the health and lives of the people, and therefore not entitled to the protection of the commercial power of the Government as explained and distinguished in the case of Crutcher *v.* Kentucky (141 U. S., 47), just decided.'

"Whenever inspection laws act on the subject before it becomes an article of commerce they are confessedly valid, and also when, although operating on articles brought from one State to another, they provide for inspection in the exercise of that power of self-protection commonly called the police power.

"No doubt can be entertained of this where the inspection is manifestly intended, and calculated in good faith, to protect the public health, the public morals, or the public safety. (Minnesota *v.* Barber, 136 U. S., 313.) And it has been determined that this is so, if the object of the inspection is the prevention of imposition on the public generally.

"In Plumley *v.* Massachusetts (155 U. S., 461), it was decided that a statute of Massachusetts 'to prevent deception in the manufacture and sale of imitation butter,' in its application to the sale of oleomargarine artificially colored, so as to cause it to look like yellow butter, and brought into Massachusetts, was not in conflict with the clause of the Constitution of the United States investing Congress with power to regulate commerce among the several States. That decision explicitly rests on the ground that the statute sought to prevent a fraud upon the general public. It is true that an article of food was involved, but the sole ground of the decision was that the State had the power to protect its citizens from being cheated in making their purchases, and that thereby the commercial power was not interfered with. (Schollenberger *v.* Pennsylvania, 171 U. S., 1.)

"Where the subject is of wide importance to the community, the consequences of fraudulent practices generally injurious, and the suppression of such frauds matter of public concern, it is within the protective power of the State to intervene. Laws providing for the inspection and grading of flour, the inspection and regulation of weights and measures, the weighing of coal on public scales, and the like, are all competent exercises of that power, and it is not perceived why the prevention or deception in the adulteration of fertilizers does not fall within its scope.

"It is apparent that there is no article entering into common use in many of the States, and particularly the Southern States, the inspection of which is so necessary for the protection of those citizens engaged in agricultural operations as commercial fertilizers. Certain ingredients, as ammonia or nitrogen, phosphoric acid, and potash, make up the larger part of the value of these fertilizers, and without the aid of scien-

tific analysis the amount of these ingredients can not be ascertained nor whether the fertilizer sold is of uniform grade. The average farmer was compelled, without an analysis, to depend on his sense of smell, of his success or failure during the previous year with the same brand or name, to determine the relative amounts of the essential ingredients and the value of the materials. To protect agricultural interests against spurious and low-grade fertilizers was the object of this law, which simply imposed the actual cost of inspection, necessarily varying with the agricultural condition of the various years. The label or tag could only be furnished after an analysis, the result of which was therein stated. In that light the law practically required an analysis in every case, and was sustained as so doing by the Supreme Court of North Carolina in State *v.* Norris (78 N. C., 443).

"The act of 1877, requiring the obtaining of a license to sell fertilizers on the payment of a privilege tax of $500, was considered in that case, at January term, 1878, of that court, and held valid under the state constitution as intended to protect the public from being imposed on by adulterated fertilizers, and to keep the traffic in the hands of responsible parties, making the means to that end self-sustaining by the license tax. And it was also decided that the law was not in conflict with the Federal Constitution on the authority of Woodruff *v.* Parham (8 Wall., 122) and Hinson *v.* Lott (8 Wall., 148).

"As before remarked, the sections of the act of 1877 relating to this subject were carried forward into the Code of 1883, and section 2190 required the license and imposed the privilege tax.

"In Stokes *v.* Department of Agriculture (106 N. C., 439, 1890), the Supreme Court held that section 2190, in prohibiting the sale, or the offering for sale, of fertilizers in North Carolina until the manufacturer or person importing the same should obtain a license, did not probibit the use of them in the State, nor the purchase of them in another State to be used for fertilizing purposes by the purchaser himself in North Carolina; and that, where a person acting for himself and others, resident farmers of the State, ordered from a nonresident manufacturer a number of bags of fetilizer, a given number being ordered for each purchaser, and the same was shipped in separate parcels, addressed to different purchasers separately, and separate bills sent to each purchaser, there being no intent to evade the statute, the transaction did not come within the inhibition of section 2190, and the goods were not liable to seizure at the instance of the Department of Agriculture.

"Similar laws of other States regulating the sale of fertilizers have been sustained on the same ground.

"In Steiner *v.* Ray (84 Ala., 93), it was held that a statute regulating the sale of commercial fertilizers, when its controlling purpose was to guard the agricultural public against spurious and worthless compounds sometimes sold as fertilizers, and to furnish to buyers cheap and reliable means of proving the deception and fraud, should such be attempted, was strictly within the pale of police regulation and was constitutional. And this case was cited with approval in Kirby *v.* Huntsville Fertilizer & M. Co. (105 Ala., 529), where it was ruled that the sale of commercial fertilizers was void unless each sack was tagged as required by statute at the time the right of property passed from the vendor to the vendee.

"In Vanmeter *v.* Spurrier (94 Ky., 22), an act of Kentucky, 'to regulate the sale of fertilizers in that Commonwealth, and to protect agriculturists in the purchase and use of the same,' was sustained; and it was held that the statute could not be fairly construed to authorize the levy of an impost on interstate commerce beyond what was necessary to inspection. The court said: 'The statute, as its title indicates, was enacted for protection of farmers of this Commonwealth against fraud and imposition of those having for sale commercial fertilizers. To accomplish that object, each one selling, or offering for sale, any fertilizer is required to submit a sample for analysis and test of its quality at the experimental station. For that purpose only can the fees collected by the director be used, and in that way and to that extent only can farmers of the Commonwealth be benefited by the statute. In our opinion the law is valid in every respect.'

"In Faircloth *v.* De Leon (81 Ga., 158), Goulding Fertilizer Company *v.* Driver (99 Ga., 623; 25 S. E., 922), and other cases, the supreme court of Georgia has held that the seller of commercial fertilizers, which had not been inspected as the law required, could not maintain against the buyer an action for the price; but in Martin *v.* Upshur Guano Company (77 Ga., 257), that the statute was not applicable where sale and delivery were without the State.

"The act of January 21, 1891, must be regarded, then, as an act providing for the inspection of fertilizers and fertilizing materials in order to prevent the practice of imposition on the people of the State, and the charge of 25 cents per ton is intended merely to defray the cost of such inspection, it being competent for the State to pass

laws of this character. Does the requirement of inspection and payment of its cost bring the act into collision with the commercial power vested in Congress? Clearly this can not be so as to foreign commerce, for clause 2 of section 10 of Article I expressly recognizes the validity of state inspection laws, and allows the collection of the amounts necessary for their execution; and we think the same principle must apply to interstate commerce. In any view the effect on that commerce is indirect and incidental, and 'the Constitution of the United States does not secure to anyone the privilege of defrauding the public.'"

UNITED STATES V. BOYER.

In United States *v.* Boyer (85 Fed., 425), wherein Harry Boyer was indicted for the crime of bribery under section 5451 of the Revised Statutes of the United States, which defines bribery, the indictment was in three counts, alleging that the prisoner attempted to bribe an assistant inspector of the Bureau of Animal Industry. Upon demurrer the court held that the act of Congress providing for the inspection of cattle, sheep, and hogs at slaughterhouses in the several States (1 Supp. Rev. Stat., 937; 2 Supp. Rev. Stat., 403) was enacted without any constitutional warrant; that rules and regulations provided by the Secretary of Agriculture were also unconstitutional; that packing houses engaged in slaughtering cattle and other animals intended for interstate and foreign commerce are not engaged in interstate commerce; that interstate commerce is not determined by the character of the commodity nor the intention of the owner respecting its transportation, nor the preparation of it for transportation, but the actual commencement of its transit to another State; that the power conferred under the "general-welfare clause" is not sufficient to support such legislation.

The court in disposing of the matter said:

"The point to be decided is whether the indictment charges an offense against the laws of the United States. Has Congress the power under the Constitution to send an inspector into a packing house located within a State and impose upon him the duties alleged in the indictment? If it has not, is one guilty of bribery, under the United States statutes, who offers or gives such inspector money to induce him not to perform such alleged duties? The importance of the question is very great. The discussion of the demurrer evinced care, research, and earnest thought by counsel, and the court has given the subject the consideration it deserves. It is a matter of public history that foreign countries have complained of American exportations of diseased meats. To guarantee foreign countries against such products, to promote American commerce therein, and to secure, as far as possible, wholesome food products, Congress enacted the legislation whereby the Secretary of Agriculture was empowered to have made a careful inspection of cattle, sheep, and hogs at slaughterhouses, which were about to be slaughtered, the products of which were intended for sale in other States or foreign countries (1 Supp. Rev. Stat., 937; 2 Supp. Rev. Stat., 403). And these inspections were to be made under rules and regulations prescribed by the Secretary of Agriculture (Id.). The inspectors were appointed in pursuance of the statutes referred to supra, and the duties alleged in the indictment prescribed by rules and regulations made in pursuance thereof. The packing houses offered no opposition, if they did not in fact approve and promote the legislation. They applied for the inspectors, presumably because it enabled them to secure the indorsement of the United States that their goods were sound and wholesome food products. If, therefore, no indictment can be predicated, under the statute, upon the state of facts set forth in the indictment, it is because there was no power in Congress to enact the statute; and the result follows that the inspectors may be corrupted with impunity because their presence in the slaughterhouses, and the duties they were called upon to perform, were both without any legal warrant, in which event the United States has the alternative left to afford the packing houses the desired indorsement through the medium of inspectors they never had any authority to appoint, or to withdraw them altogether and leave the subject to state supervision. Narrowed down, the simple question is whether the duties alleged in the indictment, which the inspectors were required under the rules and regulations of the Secretary of Agriculture to perform, were such duties as belonged to the State of Missouri or to the United States."

"In McCulloch *v.* Maryland (4 Wheat., 405) Chief Justice Marshall said:

" 'This Government [of the United States] is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge. The principle is now universally admitted. But the question respecting the extent of the powers actually granted is perpetually arising, and will probably continue to arise as long as our system shall exist.'

"In Martin *v.* Hunter's Lessee (1 Wheat., 326) the same learned jurist stated the same doctrine as follows:

" 'The Government of the United States can claim no powers which are not granted to it by the Constitution, and the powers actually granted must be such as are expressly given, or given by necessary implication.'

"In the elaborate discussion of the principles of the Constitution and the nature and character of the Government of the United States, in the Legal Tender cases (12 Wall., 457) a good deal is said about the 'nonenumerated powers' in the Constitution. It is a significant fact, however, that in these cases the court thought it necessary to point out the clause of the Constitution where the power to enact the legal-tender statutes was to be found. In these cases, too, as stated in the dissenting opinion of Mr. Justice Field (12 Wall., 638):

" 'The advocates of the measure do not agree as to the power in the Constitution to which it shall be referred, some placing it upon the power to borrow money, some on the coining power, and some on what is termed a "resulting power" from the general purposes of the Government.'

"That, however, which is most significant, I repeat, is that all the judges sought to find, and did designate, some power or powers to which the legislation shall be referred. However that may be, I do not think it can be fairly said that the court, even in the Legal Tender cases, decided, as they were, under the strain of a great emergency, intended to go further than had Chief Justice Marshall in McCulloch *v.* Maryland, and Martin *v.* Hunter's Lessee, supra; and I base the statement upon the following passage in the Legal Tender cases (p. 539):

" 'Said Chief Justice Marshall, in delivering the opinion of the court (in McCulloch *v.* Maryland): "Let the end be legitimate; let it be within the scope of the Constitution; and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional." The case (McCulloch *v.* Maryland) marks with admirable precision the province of this court. It declares that "when the law (enacted by Congress) is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity would be to pass the line which circumscribes the judicial department, and to tread on legislative ground. This court (it was said) disclaims all pretensions to such a power." It is hardly necessary to say that these principles are received with universal assent.'

"I have quoted this extract from the Legal Tender cases to show that in those cases the court approved the principles announced in McCulloch *v.* Maryland. The question is in no sense involved in the case at bar as to whether the majority of the court in the Legal Tender cases correctly applied the principles above quoted; but, if it were, it would be indelicate, if not altogether improper, for me to express an opinion in regard thereto. My duty is to conform to the opinions of that great court and not to criticise them.

"In the Legal Tender cases the court said, further:

" 'A decent regard for a coordinate branch of the Government demands that the judiciary should presume, until the contrary is clearly shown, that there has been no transgression of power by Congress, all the Members of which act under the obligation of an oath of fidelity to the Constitution.'

"Such seems to be the settled canon of construction. (Com. *v.* Smith, 4 Bin., 123; Fletcher *v.* Peck, 6 Cranch, 87; Dartmouth College *v.* Woodward, 4 Wheat., 625; Livingstone *v.* Moore, 7 Pet., 469; Ogden *v.* Saunders, 12 Wheat., 294; Knox *v.* Lee, 12 Wall., 531; Livingston Co. *v.* Darlington, 101 U. S., 410.)

"By the tenth amendment to the Constitution it is provided that—

" 'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.'

"If reasons are required for the principles announced supra, this amendment, it seems, should suffice. We must therefore look to the Constitution to find the power for the authority of Congress to enact any legislation. Nor will any degree of respect for that great legislative body supply the place of the power if it is not to be found in the Constitution. It need not be found in any one power, but if 'nonenumerated,' or a 'resulting power,' flowing from the general purposes of the Government, still it must be found somewhere in the Constitution, or it does not exist and should not be claimed. Hence, Chief Justice Marshall said, in McCulloch *v.* Maryland, supra:

" 'Should Congress, in the execution of its powers, adopt measures which are prohibited by the Constitution, or should Congress, under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the Government, it would become the painful duty of this tribunal, should a case requiring such a decision come before it, to say an act was not the law of the land.'

"Bearing in mind the principles announced, I proceed to consider the question at bar, viz, whether the duties alleged in the indictment, which the inspectors were required, under the rules and regulations of the Secretary of Agriculture, to perform, were such as belonged to the United States or to the State of Missouri. Under what clause or provision of the Constitution did Congress enact the legislation authorizing the inspection of meats, or cattle, hogs, and sheep, or their carcasses, while or before being slaughtered in slaughterhouses within a State? The learned counsel for the United States suggests, in argument, that the power may be found under what is commonly called the 'general-welfare' clause. The mention of the 'general welfare' is first found in the preamble of the Constitution, which may be properly referred to for the purpose of correctly construing the instrument; but I venture the opinion that no adjudicated case can be cited which traces to the preamble the power to enact any statute.

"Mr. Justice Story, in his work on the Constitution (sec. 462), says:

"'And here we must guard ourselves against an error which is too often allowed to creep into the discussions upon this subject. The preamble never can be resorted to to enlarge the powers confided to the General Government or any of its departments. It can not confer any power per se. It can never amount, by implication, to an enlargement of any power expressly given. It can never be the legitimate source of any implied power, when otherwise withdrawn from the Constitution. Its true office is to expound the nature and extent and application of the powers actually conferred by the Constitution, and not substantially to create them. For example, the preamble declares one object to be "to provide for the common defense." No one can doubt that this does not enlarge the powers of Congress to pass any measures which they may deem useful for the common defense. But suppose the terms of a given power admit of two constructions—the one more restrictive, the other more liberal—and each of them is consistent with the words, but is and ought to be governed by the intent of the power; if one would promote, and the other defeat the common defense, ought not the former, upon the soundest principles of interpretation, to be adopted? Are we at liberty, upon any principles of reason or common sense, to adopt a restrictive meaning which will defeat an avowed object of the Constitution, when others equally natural and more appropriate to the object is before us? Would not this be to destroy an instrument by a measure of its words, which that instrument itself repudiates?'

"But the 'general-welfare' clause to which the learned counsel doubtless referred is found in section 8, Article I, of the Constitution, and is as follows:

"'The Congress shall have power: (1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.'

"Mr. Justice Story, in the same elaborate work (secs. 907 and 908), says of this provision:

"'Before proceeding to consider the nature and extent of the power conferred by this clause and the reasons on which it is founded, it seems necessary to settle the grammatical construction of the clause and to ascertain its true reading. Do the words "to lay and collect taxes, duties, imposts, and excises" constitute a distinct, substantial power; and the words "to pay the debts and provide for the common defense and general welfare of the United States" constitute another distinct and substantial power? Or are the latter words connected with the former so as to constitute a qualification of them? This has been a topic of political controversy and has furnished abundant materials for popular declamation and alarm. If the former be the true interpretation, then it is obvious that, under color of the generality of the words "and provide for the common defense and general welfare," the Government of the United States is, in reality, a government of general and unlimited powers, notwithstanding the subsequent enumeration of specific powers. If the latter be the true construction, then the power of taxation only is given by the clause, and it is limited to objects of a national character, "to pay the debts and provide for the common defense and general welfare." The former opinion has been maintained by some minds of great ingenuity and liberality of views. The latter has been the generally received sense of the nation, and seems supported by reasoning at once solid and impregnable. The reading, therefore, which will be maintained in these commentaries is that which makes the latter words a qualification of the former, and this will be best illustrated by supplying the words which are necessarily to be understood in this interpretation. They will then stand thus: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises in order to pay the debts, and to provide for the common defense and general welfare of the United States;" that is, for the purpose of paying the public debts and providing for the common defense and general welfare of the United States.

In this sense Congress has not an unlimited power of taxation; but it is limited to specific objects—the payment of the public debts and providing for the common defense and general welfare. A tax, therefore, laid by Congress for neither of these objects would be unconstitutional, as an excess of its legislative authority.'

"After a most elaborate and historical discussion of the subject, presenting the different views of the different political schools or parties, he concludes that the 'general-welfare' clause 'contains no grant or power whatsoever, but it is a mere expression of the ends and purposes to be effected by the preceding power of taxation' (Id., sec. 911). I content myself with the fact that the former construction has never been sustained by any court, and the reverse has been held so often as not to require citations to support it, while the latter construction rests upon the theory that the 'general-welfare' clause contains no power of itself to enact any legislation, but, on the contrary, the words 'and provide for the common defense and general welfare of the United States,' according to the most liberal constructionist, is a limitation on the taxing power of the United States, and that only.

"No case has been cited tracing the power to enact any statute to the general-welfare clause above quoted, and I do not believe any can be. The learned counsel in this connection has cited various acts of Congress of a nature quite similar to the one in question, but no number of statutes or infractions of the Constitution, however numerous, can be permitted to import a power to the Constitution which does not exist, or to furnish a construction not warranted. They, too, must stand or fall, when brought in a question, by the same principles which are to be applied alike in all cases.

"It has been suggested that the 'commerce clause' may warrant the enactment of the statute under consideration. Manifestly, I think, the statute was enacted upon the theory that such was the case. That such is not the case, I think there is no reasonable doubt. The clause reads as follows: 'The Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.' What is commerce? Is it manufacturing? Is slaughtering cattle and sheep and hogs commerce? If so, why is not farming, or stock raising, or manufacturing lumber, or mining? For all these enter into commerce, both domestic and foreign, and are intended for both.

"In Gibbons *v.* Ogden (9 Wheat., 1) Chief Justice Marshall said:

"'Commerce, undoubtedly, is traffic, but it is something more. It is intercourse. It describes the commercial intercourse between nations and parts of nations, in all its branches, and is regulated by prescribing rules for carrying on that intercourse.'

"But what commerce or intercourse is it that Congress has the power to regulate? It is 'commerce with foreign nations, among the several States, and with the Indian tribes.' No power is here given to regulate, or prescribe rules for regulating, commerce or intercourse among the citizens of a State. Does the power, then, 'to regulate commerce with foreign nations, and among the several States, and with the Indian tribes,' embrace the power to send inspectors within a State to inspect animals being slaughtered, the product of which is intended for foreign markets? Nobody contends that Congress has any power to regulate commerce within a State. That it has not is universally admitted. When, then, does commerce become interstate commerce? That question has gone before the Supreme Court of the United States many times, and in many forms. Kidd *v.* Pearson (128 U. S., 1; 8 Sup. Ct., 6) is a case in which the State of Iowa passed a law prohibiting the manufacture or keeping of intoxicating liquors within that State except for mechanical, medicinal, culinary, and sacramental purposes. Kidd manufactured liquors not intended for the purposes stated, but exclusively for exportation to States in which the sales of liquors were not prohibited. He was indicted therefor, convicted, and the case was affirmed by the Supreme Court of Iowa. Writ of error was sued out to the Supreme Court of the United States, and the first question presented was whether the Iowa statute was in conflict with section 8, Article I, of the Constitution of the United States, by attempting to regulate commerce between the States. Mr. Justice Lamar delivered the opinion of the court, quoting approvingly from Gibbons *v.* Ogden, supra, and used these words:

"'The genius and character of the whole Government seems to be that its action is to be applied to all the external concerns of the nation, and to those internal concerns which affect the States generally, but not to those which are completely within a particular State, and with which it is not necessary to interfere for the purpose of executing some of the general powers of the Government. The completely internal commerce of a State, then, may be considered as reserved for the State itself.'

"Continuing, Mr. Justice Lamar said:

"'No distinction is more popular to the common mind, or more clearly expressed in economic and political literature, than that between manufactures and commerce. Manufacture is transformation—the fashioning of raw materials into a change of form

for use. The buying and selling and the transportation incident thereto constitutes commerce; and the regulation of commerce in the constitutional sense embraces the regulation, at least, of such transportation. The legal definition of the term as given by this court in County of Mobile *v.* Kimball (102 U. S., 691, 702) is as follows: "Commerce with foreign nations and among the States, strictly considered, consists in intercourse and traffic, including in these terms navigation and the transportation and transit of persons and property, as well as the purchase, sale, and exchange of commodities." If it be held that the term includes the regulation of all such manufactures as are intended to be the subject of commercial transactions in the future, it is impossible to deny that it would also include all productive industries that contemplate the same thing. The result would be that Congress would be invested, to the exclusion of the States, with the power to regulate, not only manufacture, but also agriculture, horticulture, stock raising, domestic fisheries, mining—in short, every branch of human industry. For is there one of them that does not contemplate more or less clearly an interstate or foreign market? Does not the wheat grower of the Northwest, and the cotton planter of the South, plant, cultivate, and harvest his crop with an eye on the prices at Liverpool, New York, and Chicago? The power being invested in Congress and denied to the States, it would follow as an inevitable result that the duty would devolve on Congress to regulate all of these delicate, multiform, and vital interests—interests which in their nature are and must be local in all the details of their successful management. It is not necessary to enlarge on, but only to suggest, the impracticability of such a scheme, when we regard the multitudinous affairs involved, and the most infinite variety of their minute details.'

"Justice Lamar, continuing, said:

"'We have seen that whether a State, in the exercise of its undisputed power of local administration, can enact a statute prohibiting within its limits the manufacture of intoxicating liquors, except for certain purposes, is not any longer an open question before this court. Is that right to be overthrown by the fact that the manufacturer intends to export the liquors when made? Does the statute, in omitting to except from its operation the manufacture of intoxicating liquors within the limits of the State for export, constitute an unauthorized interference with the power given to Congress to regulate commerce? These questions are well answered in the language of the court in the License Tax cases (5 Wall., 462, 470): "Over this commerce and trade (the internal commerce and domestic trade of the States) Congress has no power of regulation, nor any direct control. This power belongs exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject." The manufacture of intoxicating liquors in a State is none the less a business within that State because the manufacturer intends, at his convenience, to export such liquors to foreign countries or to other States. This court has already decided that the fact that an article was manufactured for export to another State does not of itself make it an article of interstate commerce within the meaning of section 8, Article I, of the Constitution, and that the intent of the manufacturer does not determine the time when the article or product passes from the control of the State and belongs to commerce,' citing Coe *v.* Errol (116 U. S., 517; 6 Sup. Ct., 475).

"Quoting from Coe *v.* Errol, supra, delivered by Mr. Justice Bradley, he says:

"'There must be a point of time when they cease to be governed exclusively by the domestic law and begin to be governed and protected by the national law of commercial regulation; and that moment seems to us to be a legitimate one for this purpose in which they commence their final movement for transportation from the State of their origin to that of their destination.'

"Quoting also from The Daniel Ball (10 Wall., 557), he says:

"'Whenever a commodity has begun to move as an article of trade from one State to another, commerce in that commodity between the States has commenced. But this movement does not begin until the articles have been shipped or started for transportation from the one State to another.'

"In Covington, etc., Bridge Co. *v.* Kentucky (154 U. S., 210; 14 Sup. Ct., 1087) Mr. Justice Brown said:

"'Congress has no power to interfere with police regulations, relating exclusively to the internal trade of the States (U. S. *v.* Dewitt, 9 Wall., 41; Patterson *v.* Kentucky, 97 U. S., 501); nor can it, by exacting a tax for carrying on a certain business, thereby authorize such business to be carried on within the limits of a State. (License Tax cases, 5 Wall., 462, 470, 471.) The remarks of the Chief Justice in this case contain the substance of the whole doctrine: "Over this (the internal) commerce and trade Congress has no power of regulation, nor any direct control. This power belongs

exclusively to the States. No interference by Congress with the business of citizens transacted within a State is warranted by the Constitution, except such as is strictly incidental to the exercise of powers clearly granted to the legislature. The power to authorize a business within a State is plainly repugnant to the exclusive power of the State over the same subject.'''

"In United States *v.* E. C. Knight Co. (156 U. S., 9; 15 Sup. Ct., 249) Mr. Chief Justice Fuller, delivering the opinion of the court (at p. 14, 156 U. S., and pp. 245, 255, 15 Sup. Ct.), quotes approvingly from Kidd *v.* Pearson, supra; Gibbons *v.* Ogden, supra; and Brown *v.* Maryland (12 Wheat., 419), and says:

"' It is vital that the independence of the commercial power and of the police power, and the delimitation between them, however sometimes perplexing, should always be recognized and observed; for while the one furnishes the strongest bond of union, the other is essential to the preservation of the autonomy of the States as required by our dual form of government; and acknowledged evils, however grave and urgent they may appear to be, had better be borne than the risk be run, in the effort to suppress them, of more serious consequences by resort to expedients of even doubtful constitutionality.'

"Cases on this point might be multiplied almost indefinitely, and from them I cite License Tax cases (5 Wall., 470); United States *v.* Dewitt (9 Wall., 41); Patterson *v.* Kentucky (97 U. S., 501); Covington, etc., Bridge Co. *v.* Kentucky (154 U. S., 210; 14 Sup. Ct., 1087); Tennessee *v.* Davis (100 U. S., 300); Sands *v.* Improvement Co. (123 U. S., 295; 8 Sup. Ct., 113); Royall *v.* Virginia (116 U. S., 577; 6 Sup. Ct., 510); The Daniel Ball (10 Wall., 557); Kidd *v.* Pearson (128 U. S., 23; 9 Sup. Ct., 6); United States *v.* E. C. Knight Co. (156 U. S., 13; 15 Sup. Ct., 249); In re Greene (52 Fed., 104, 119); Slaughterhouse cases (16 Wall., 36); United States *v.* Trans-Missouri Freight Association (166 U. S., 290; 17 Sup. Ct., 540).

"From these authorities it follows that—

"' When the (interstate) commerce begins is determined, not by the character of the commodity, not by the intention of the owner to transfer it to another State for sale, nor by his preparation of it for transportation, but by its actual delivery to a common carrier for transportation, or the actual commencement of its transfer to another State. At that time the power and regulating authority of the State ceases, and that of Congress attaches and continues, until it has reached another State and becomes mingled with the general mass of the property in the latter State. That neither the production or manufacture of articles or commodities which constitute subjects of commerce, and which are intended for trade and traffic with citizens of other States, nor the preparation for their transportation from the State where produced or manufactured prior to the commencement of the actual transfer or transmission thereof to another State, constitutes that interstate commerce which comes within the regulating power of Congress.' (In re Greene, 52 Fed., 113.)

"The Jacob Dold Packing Company, therefore, while engaged in slaughtering and packing cattle, sheep, and hogs within the State of Missouri, the carcasses and products of which they intended to transport and sell for human consumption in other States and Territories, or in foreign countries, were not engaged in interstate commerce; and, not being engaged in interstate commerce, their business was in no sense subject to be regulated by Congress under the interstate commerce clause of the Constitution. The cases which I have quoted sufficiently indicate that the regulations which the Secretary of Agriculture, under the act of Congress, sought to exercise, and which are alleged in the indictment, are clearly and exclusively lodged in the State of Missouri, and not in the Government of the United States; but what has been said may be supplemented by the language of Chief Justice Marshall in the great case of Gibbons *v.* Ogden, supra, as follows:

"' That inspection laws may have a remote and considerable influence on commerce will not be denied; but that a power to regulate commerce is the source from which the right to pass them is derived can not be admitted. The object of inspection laws is to improve the quality of articles produced by the labor of the country; to fit them for exportation, or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce, or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws, of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, etc., are component parts of this mass. No direct general power over these objects is granted to Congress; and, consequently, they remain subject to state legislation. If the legislative power of the Union can reach them, it must be for national purposes. It must be where the power is expressly given

for a special purpose, or is clearly incidental to some power which is expressly given.' (Story, Const., sec. 1070.)

"It has not been suggested that the legislation under discussion may be traced to any other power found in the Constitution, and hence I do not discuss any other power found therein. I think it clear from what has been said that Congress has no power, even if it had done so by express legislation, to create the offices of inspectors, and impose upon them, or upon agents appointed in pursuance of law by the heads of departments, the duties alleged in the indictment."

UNITED STATES INSPECTION LAWS.

These statutes may be conveniently divided into the following heads:

1. Food and drug acts:

(*a*) Relating to dairy products and imitations and adulterations thereof: Act August 2, 1886, chapter 840, section 6, of this act, relating to the branding and marketing, was held constitutional in Dougherty *v.* United States (108 Fed., 56). Act May 9, 1902, chapter 784; no test of constitutionality. Act June 6, 1896, chapter 337; no test of constitutionality.

(*b*) Inspection of articles of food, drink, medicines, etc.: Act August 30, 1890, chapter 839; no test of constitutionality. Act March 2, 1897, chapter 358 (tea); held constitutional in Sang Lung (85 Fed., 502).

(*c*) Relating to importation of drugs, etc., Revised Statutes, sections 2611, 2612, 2743, and 2933; no test of constitutionality.

(*d*) Act February 23, 1887, chapter 210; no test of constitutionality.

(*e*) Act June 30, 1906, chapters 2915 and 3913; no test of constitutionality.

2. Concerning steam vessels: Revised Statutes, sections 4399–4462; no test of constitutionality.

3. Vessels carrying immigrants and emigrants: Section 6, act March 3, 1893, chapter 206, amending section 8, act March 3, 1891; no test of constitutionality. Section 16, act March 3, 1903; no test of constitutionality.

4. Inspection of vessels carrying passengers: Section 11, act August 2, 1882; no test of constitutionality.

5. Inspection of mines in Territories: Act March 3, 1891, chapter 564; no test of constitutionality.

6. Inspection, weighing, etc., under customs laws; no test of constitutionality.

7. Inspection of animals: Act March 3, 1891, chapter 355, as amended by act March 2, 1895, chapter 169. Act May 29, 1884. Both held unconstitutional in U. S. *v.* Boyer (85 Fed., 425). Act March 4, 1907, chapter 2907; no test of constitutionality.

DIGEST OF STATE GRAIN INSPECTION LAWS.

ILLINOIS.

[Revised Statutes, 1905, p. 1591. 134.]

Warehouses divided into three classes (licenses required from circuit court of county—bond filed—in Class A).

No grain to be delivered from a warehouse unless inspected by a duly authorized inspector of grain. Railroad and warehouse commissioners can put inspectors in those elevators where the proprietors store their own grain with that of others to prevent any undue advantage being taken. Elevator receipts bear on their face statement as to the quantity and quality of grain received into store.

Governor, with advice and consent of senate, appoints chief inspector of every city or county in which is located a warehouse of Classes A and B. To be a disinterested party. But appointment in counties or cities containing warehouses of Class B to be made only on recommendation of board of railroad or warehouse commissioners.

Chief inspector to have a general supervision of the inspection of grain, under advice and immediate direction of the board aforesaid. Chief inspector can nominate to the board assistant inspectors and other employees. Commissioners authorized to make such appointments. Chief and assistant inspector to take oath and give bond.

Chief inspector, assistants, and employees are governed by rules prescribed by the board of commissioners, etc., who make all rules for the inspection of grain—and they regulate all charges, etc., which are to be made sufficient to meet the services of inspection, and no more.

Board exercises a general supervision over the inspection department, prescribing their respective duties, compensation, etc. Expenses paid from funds collected by the same.

Rates of storage to be published by each warehouse of Class A during the first week in January of each year, which rates shall not be increased during the year, except as provided for. No discrimination to be made for the storage of grain.

In all places where there are legally appointed inspectors of grain no proprietor or manager of a public warehouse of Class B can receive any grain unless same has been graded and inspected.

Any owner or consignee dissatisfied with inspection, or who does not weigh his grain to go into store, shall be at liberty to withhold it from storage, i. e., from going into a public warehouse.

Commission to establish grades. Committee of appeals provided for, and their decision is final.

MISSOURI.

[Revised Statutes of, S. 7623 et seq.]

Board of railroad and warehouse commissioners. They appoint chief inspector; two years. He has a general supervision of the inspection of grain, under the immediate direction of the board.

Certain warehouses designated as "public." License. Bond. No discrimination in storage of grain, but charges to be uniform. Grain received at public warehouses to be inspected and graded by a duly authorized inspector. No grain to be delivered from a public warehouse unless it be inspected. (Various other provisions analogous and some identical with those of Illinois.)

Chief inspector has a general supervision. Chief inspector nominates deputies and such other employees as may be necessary (provisions as to salaries, etc.).

Commissioners establish the grades of grain. Commissioners can subpœna witnesses. (Attachment for contempt of courts.) Weighmasters provided for.

MINNESOTA.

[Revised Laws, sec. 2047, et seq.]

Elevators located at St. Paul, Minneapolis, and Duluth, and other points in the State which are now or may hereafter be designated as terminal points, in which grain is received for storage in bulk, and that if different owners mixed together, or so stored that the identity of the different lots or parcels is destroyed, shall be public warehouses known as terminal warehouses. License. All grain to be inspected on receipt.

All grain received at a terminal warehouse to be inspected and graded by a state inspector, and reinspected in like manner upon delivery from such warehouse. Charges of same paid by warehousemen and added to the storage.

Minneapolis and Duluth grain inspection. Boards provided for two years' service. The "Minnesota grades" established by these two boards. They appoint a chief inspector; two years. Deputy inspectors provided for; deputy inspectors of St. Paul, Minneapolis, and Duluth styled "chief deputies."

Inspectors to inspect and grade all grain received at or shipped from any terminal warehouse, whether in car or boat load lots. Appeal to nearest board of grain appeals is provided for. Not necessary to have grain stored, upon giving proper notice, etc. Weighmasters provided for. All moneys coming into state treasury through this means is appropriated to the salaries of this department.

The inspection boards were formerly known as the board of appeals.

INDIANA.

[Burns's Annot. Indiana Statutes.]

Board or county commissioners in any county may appoint inspectors—four years unless removed—to inspect within said county, when required, salt, beef, pork, flour, and hay.

There shall be appointed annually, by the board of trade or other commercial organization, one or more inspectors of grain or other property for the county where such board is organized, and in case there be no such organization in any county then the judge of the circuit court may appoint such inspectors (oath prescribed). Where there are two or more such organizations in any city the one whose members deal most exclusively in grain or produce shall make such appointment, and shall provide for his compensation; and for that purpose may fix a schedule of fees to be paid by the owners of such property as may be inspected.

Such inspector may classify and determine the grade to which any article of property submitted to his inspection belongs; but where there is a board of trade or other commercial organization in such county it shall have the exclusive authority to fix the grade of property, defining what shall constitute grades Nos. 1, 2, etc., the inspector determining only as to what grade the same belongs. Where there is no such organization in any county, then the grading and rates of compensation adopted by such organization in the city nearest the point where such grain or other property is inspected shall govern the inspector in his inspection.

KANSAS.

[Code, sec. 3379 et seq.]

Department of record established for inspection and weighing of grain—called state grain inspection department. Such department has full charge of the inspection and weighing of grain in the State at all railroad terminals, public warehouses, or other points within the State, wherever State grain inspection and weighing may be established at the discretion of the chief inspector.

Governor appoints suitable person, with confirmation of the senate, to be known as chief inspector of grain for State of Kansas; two years' service.

Duties: 1. General supervision of inspection and weighing of grain. 2. Supervise handling, inspection, and storage of grain. 3. Establish necessary rules and regulations. 4. To keep proper records. 5. Investigate complaints of fraud in the grain trade.

Bond, $10,000.

Chief inspector can recommend to governor a suitable person as supervising inspector of each city, town, or place in the State where one or more public warehouses may be doing business under the law.

They shall visit daily the elevators and railroad tracks, supervising inspection, with a view to securing a uniform inspection of grain.

A supervising weighmaster also to be recommended for similar places. He shall supervise weighings, inspect scales, etc. Assistant inspectors, assistant weighmasters, and other employees similarly provided for.

Governor to make such appointments if found by him to be necessary.

Assistants bonded, $5,000.

Governor appoints three persons as "Grain inspection commission," they to establish the "Kansas grades;" two years, $100 and mileage.

Samples to be provided by inspectors.

Various fees provided.

These inspection charges a lien, and treated as advanced charges whenever grain is in transit. Collected and paid by common carrier. Monthly report of the chief inspector, and money collected paid into state treasury.

The various salaries provided for. Provided, that if at any inspecting point the revenue is less than salary of an assistant inspector, that branch of the service may be abolished by chief inspector or an arrangement may be made with such officer to accept the revenue coming from such a place as full compensation for his services.

Penalties provided for neglect of duty or false inspection.

Only qualified inspectors to act—misdemeanors.

Action of state inspection officers conclusive to all parties in interest.

Penalty for bribery.

Decision of assistant inspectors final, unless an appeal be taken as hereinafter provided for.

Reinspection may be called for in case of dissatisfaction with grading of grain, or an appeal taken to a standing committee of three (appointed by chief inspector at every point where state inspection may be established), this committee to consist of experienced grain men; decision final; $3 per case to be paid to said committee before any appeal entertained (as a sort of security for costs), going to committee if appeal sustained, and going back to complainant if overruled.

Nothing in this act to prevent any person selling grain by sample, regardless of grade.

State's legal department helps chief inspector.

Repealing certain acts inconsistent with the one in consideration.

Any shipper of grain weighed by state inspection department may get weight of same from chief inspector, etc.

STATE INSPECTION LAWS.

Notes to Turner *v.* Maryland (107 U. S., 38) give the numerous instances of state statutes providing for measurement and inspection of articles.

The following are the acts and the subjects in reference to which they were passed:

New Hampshire.—Casks of flaxseed, 1785, see Perpetual Laws of New Hampshire, 1789, page 193. Dimensions of shingles, staves, and hoops. Ibid., page 188.

Massachusetts.—Shingles, staves, and hoops. Acts and Resolves of the Province of Massachusetts Bay, volume 3 (1742–1756), page 128 et seq., chapter 22. Size of casks for pickled fish. Ibid., page 1000. Act of 1757.

Rhode Island.—Regulating the inspection of beef, pork, pickled fish, and tobacco, and ascertaining the assize of casks, clapboards, shingles boards, etc., Public Laws of Rhode Island and Providence Plantations, edition 1798, pages 509, 512, 522.

Connecticut.—Statutes of Connecticut, edition 1786. For ascertaining the assize of casks used for liquor, beef, pork, and fish, pages 18, 312. There were sworn packers of tobacco, whose duty it was to brand casks.

New York.—Laws, edition 1789. All flour for exportation to be packed in casks of a certain size and make. No flour to be exported without having been inspected. 1785, chapter 35, page 197. No pot or pearl ashes to be exported before inspection.

New Jersey.—Capacity of meat barrels. Act of April 6, 1676. Leaming and Spicer, page 116. Capacity of barrels, ibid., page 120; bricks, ibid., 459; barrels, ibid., 508. Assize of bread, ibid., 545, 546, 547. Size of casks, act of 1725. Staves, hoops, shingles, etc., act of September 26, 1772. Size of casks, act of September 26, 1772.

Pennsylvania.—Laws of Pennsylvania, A. J. Dallas, 1797. Dimensions of casks for beer, ale, pork, beef, etc., page 27 et seq. Dimensions of staves, headings, boards, and timber, ibid., page 452, act of 1781, chapter 201.

Maryland.—Gauge of barrels for pork, beef, pitch, tar, turpentine, and tare of barrels for flour or bread, 1745, chapter 15. Flour barrels, 1771, chapter 20; 1781, chapter 12. Staves and headings, 1745, chapter 15; 1771, chapter 20; 1786, chapter 17. Salted provisions, 1745, chapter 15; 1786, chapter 17. Hay and straw, 1771, chapter 20. Flour, 1781, chapter 12. Fish, 1786, chapter 17. Liquor casks, 1774, chapter 23; 1777, chapter 17; 1784, chapter 83; 1785, chapter 87. Many other Maryland provincial laws, prescribing the length, superficial and solid measure, weight, and capacity of domestic products are collected on pages 45–47 of the report of Mr. A. J. Alexander on the Standards of Weights and Measurement in Maryland.

Virginia.—Laws of Virginia Revisal 1783, pages 47, 188, 192. Pork, etc., required to be packed in barrels before exportation. As to contents, quality, and stamps of barrels of pork, beef, pitch, tar, and turpentine, see ibid., page 47, act of 1776, chapter 43. Inspection of tobacco, and size of tobacco hogsheads. Act of 1783, chapter 10, sections 1, 15, 20.

North Carolina.—Iredell's Laws of North Carolina, edition 1791. Dimensions of beef, pork, and fish casks, staves and headings and of boards, planks, and shingles. Act of 1784, chapter 36.

South Carolina.—Grimke's Public Laws. Dimensions and capacity of beef and pork barrels, page 209.

Georgia.—Watkin's Digest. Casks for beef and pork. Size of barrels for pitch, tar, and turpentine. Act of 1766, No. 140, amended by act of 1768, No. 178.

In the legislation of the Province and State of Maryland, in reference to tobacco, the dimensions or gauge of tobacco hogsheads was fixed by the acts of 1658, chapter 2; 1676, chapter 9; 1694, chapter 5; 1699, chapter 4; 1704, chapter 53; 1711, chapter 5; 1715, chapter 38; 1716, chapter 8; 1717, chapter 7; 1723, chapter 25; 1747, chapter 26; 1753, chapter 22; 1763, chapter 18; and 1789, chapter 26.

Pennsylvania.—Beef and pork, intended for exportation, when packed or repacked, in Philadelphia: 1 Brightly, Purdon's Digest, 1873, pages 157, 158. Butter and lard, ibid., 188, 189; domestic distilled spirits, ibid., 525; flaxseed, ibid., 708; flour and meal, ibid., 711.

Delaware.—Size of casks for exportation of breadstuffs. Revised Statutes, 1874, page 363.

Virginia.—Tobacco, Code 1873, pages 739, 740. Fish, ibid., 750; pitch, tar, turpentine, salt, staves, shingles, and lumber, ibid., 751.

Rhode Island.—Public Statutes, 1882. Beef and pork casks, chapter 3, page 294; lime casks, ibid., 298; fish casks, ibid., chapter 114, page 299.

Maine.—Revised Statutes, 1871. Lime, chapter 39, section 3; pot and pearl ashes, ibid., section 9; nails, ibid., section 17; fish, ibid., chapter 40, sections 7, 8, and 11; cord wood, ibid., chapter 41, section 1; charcoal baskets, ibid., section 7; packed shingles, ibid., section 16; staves and hoops, ibid., sections 18, 19; beef and pork barrels, ibid., chapter 38, sections 16 and 17.

New Hampshire.—General Laws, 1878. No salted beef to be exported except in tierces, barrels, or half barrel of particular quality, weight, and dimensions, and duly branded, chapter 126, sections 4 and 5; butter and lard casks, chapter 127, page 305;

fish barrels, tierces, and casks, chapter 129, page 310; casks of pot and pearl ashes, chapter 130, page 114.

Massachusetts.—General Statutes, 1860. Casks for pickled fish, chapter 49, section 44; alewives, ibid., section 50; staves, ibid., section 85; hogshead hoops, ibid., section 86; casks for pot and pearl ashes, ibid., section 167; kegs for butter and lard, ibid., section 14.

Connecticut.—General Statutes, 1875. Fish barrels, page 275, section 19.

Vermont.—Revised Laws of 1880, page 715. Barrels of flour, weight, etc.

New Jersey.—Revision, 1877; beef and pork barrels, flour and meal casks, ibid., 437; herring casks, ibid., 487.

Georgia.—Code, 1867; flour barrels, section 1562; turpentine barrels, ibid., section 1573.

Louisiana.—Digest of Statutes, volume 2, 1870; beef and pork barrels, page 38, section 28.

Wisconsin.—Statutes of fish casks, page 856, section 22.

Michigan.—Compiled Laws, 1871, volume 1, pages 474–485. Size and weight of beef, pork, and fish barrels, butter and lard barrels; flour and meal casks; pot and pearl ash casks.

South Carolina.—General Statutes; flour barrels, page 275; beef barrels, ibid., 279; staves and shingles, ibid., 280.

North Carolina.—Battle's Revisal; flour barrels, chapter 61, section 34, page 496; beef or pork casks, ibid., section 50, page 499; fish barrels, ibid., section 53, page 499; turpentine, tar, and pitch barrels, ibid., section 54, page 500.

Tennessee.—Statutes, 1871; butter or lard casks, section 1832; flour barrels, 1834.

Florida.—Digest of Laws, 1881, page 579; sizes of tar and turpentine barrels.

Mississippi.—Flour and pork barrels; Revised Code, 1880, section 949, page 280.

Ohio.—Revised Statutes, 1880, volume 1; hogsheads of tobacco, page 264, section 391; fish barrels, ibid., section 4300; spirit barrels, section 4327; oil barrels, section 4293; pot and pearl ash barrels, section 4291; beef or pork barrels, section 4285; flour and meal barrels, section 4281.

The legislation of Maryland since 1787 affords the following instances: Pot and pearl ashes, intended for exportation from Baltimore or Georgetown, in Montgomery County, were required to be packed in a particular manner in casks and to be inspected and weighed. 1792, chapter 65. A similar provision was made to prevent the exportation of unmerchantable flour and unsound salted provisions from Havre de Grace by the act of 1796, chapter 21; and from Chester, by the act of 1797, chapter 7. By the act of 1781, chapter 12, provision was made to prevent the exportation of bread and flour which were not merchantable from the town of Havre de Grace. This act was enacted for a limited time only and expired. It was revived and enacted into a permanent law by the act of 1801, chapter 102, section 2, and is set forth in a note to the section last referred to in the acts of 1801. By section 6 of the act of 1801, chapter 102, the size of all flour casks brought into Baltimore town for exportation, the character of the materials and make, the manner of hooping and nailing such hoops, the particular length of the stays, the diameter of the casks at the heads, and the number of pounds of flour to be in each cask are specifically prescribed. The size of laths and the mode of packing them was regulated by the act of 1811, chapter 69. The number and character of hoops upon casks of ground black oak bark exported from the port of Baltimore was prescribed by the act of 1821, chapter 77. The gross weight of a hogshead of tobacco, as well as its net weight, was required to be marked on the hogshead by the act of 1789, chapter 26, section 21. The dimensions of the hogsheads in which tobacco was required to be packed was prescribed by section 35 of the act last cited. Further illustration may be found in the following legislation: Weighing wheat, 1858, chapter 256, section 5; Frazier *v.* Warfield (13 Md., 300–304); fish barrels and tierces, Public Local Laws, article 4, section 309; flour, ibid., section 352; domestic distilled liquors, ibid., section 360; flour barrels, 1 Maryland Code, article 96, section 20.

STATES NOW HAVING LAWS PROVIDING FOR THE INSPECTION OF PERSONAL PROPERTY.

Arkansas.—Oils and fluids, chapter 85; fruit trees, chapter 86; timber, chapter 82; tobacco, chapter 88; wine, section 5104. Arkansas Digest, 1904.

California.—Gas meters, sections 115 et seq.; steamboats, section 549. Code, 1906.

Florida.—Marks and brands, including hides, sections 3334–3342; boilers, section 3800; fertilizers, section 1262; naval stores, sections 3131 et seq.; timber and lumber, sections 1244, 1255. General Statutes, 1906.

Georgia.—Flour, grain, corn meal, etc., section 1630 (inspection is not obligatory, but permissive); lumber, section 1595; fertilizers, section 1561; illuminating oils,

section 1588; liquors, sections 1531–1535; pitch, tar, turpentine, and rosin, sections 1596–1599; cotton and rice, sections 1601–1620. Code, 1895.

Idaho.—Sheep, section 693; horticultural products, section 760. Code, 1901.

Illinois.—Grain, 1594, section 146; coal oil, etc., 142, sections 1–8. Hurd's Revised Statutes, 1905.

Indiana.—Grain, sections 8718, 8719; nurseries, sections 7042*a*–7042*k*; oil, sections 6996 et seq.; salt, flour, brands on barrels, bales of hay, sections 7015 et seq.; tobacco, sections 7029 et seq.; natural gas, sections 7504 et seq. Burns's Annotated Statutes, 1901.

Iowa.—Sheep, sections 2343–2347; petroleum products, sections 2503–2510; milk and cream, sections 2524–2526; lumber and shingles, sections 3030–3033. Code, 1897. Nursery stock, sections 2575*e*–2575*f*. Code, 1902.

Kansas.—Sheep, section 7388; diseased cattle, sections 7420, 7447; grain, section 3224; oils, section 4290; brands on animals, section 7412. General Statutes, 1901.

Kentucky.—Chapter 71, Kentucky Statutes, 1903, provides for inspection of tobacco, flour, salt, salt beef and pork, lard, spirituous liquors, hydro-carbon oils, or oils made from coal, petroleum, and well oil.

Louisiana.—Oils, act 37, E. S. 1877 and act 126, 1898; tobacco, sections 1823 et seq.; beef and pork, section 1848; flour, beef, and pork in parish of Jefferson, section 1869; flour, for town of Washington, section 1872. Consolidated and Revised Laws, 1904.

Maine.—Fish, section 5 et seq.; flour, section 1 et seq.; lime, section 2 et seq.; leather, section 15 et seq.; milk, section 9 et seq.; petroleum, section 9 et seq.; vinegar, section 17 et seq. Revised Statutes, Maine, 1903.

Maryland.—Article 48 provides for inspection of illuminating oils, tobacco, trees (for horticultural purposes), scaffolding, feed stuff (defined not to include hays and straws, whole seeds or unmixed meals, nor wheat, rye, buckwheat, bran, or middlings; but includes linseed and cotton-seed meal and hulls, pea meals, cocoanut meals, gluten feeds, dried brewers' grains, chop feed, etc.), adulterated foods, vinegar, fertilizers, oysters, weights and measures, and cords of wood. Section 72 provides for the inspection of wood and lumber. Public General Laws, 1904.

Massachusetts.—Animals, ballast, fish, gas, hay and straw, lime, liquors, milk, and petroleum. Revised Laws, 1902.

Mississippi.—Food and drugs are inspected under chapter 53, Code Mississippi, 1906.

Michigan.—Bees, commercial fertilizers, feeding stuffs, food, meat, milk, oils, and salt are inspected under Compiled Laws, 1906.

Minnesota.—Grain, section 2047 et seq.; oil, sections 1724–1733; food and animals, section 1736 et seq. Revised Laws, 1905.

Missouri.—Food, section 5508; beer, section 7693; grain, section 7624; petroleum, section 7582; tobacco, section 7598 et seq. Revised Laws.

Nebraska.—Bees, page 187; gasoline, page 1149; oils, page 1145; sheep, page 116. Compiled Statutes, 1907.

New Hampshire.—Animals, section 355; hay, section 393; milk, section 399 et seq.; petroleum, section 395. Public Statutes, 1901.

New Jersey.—In 1871 incorporated by act of legislature the Jersey City board of grain weighers and measurers.

New York.—Dairy products, pages 35, 37, 62; flour, etc., page 1815; diseased animals, page 49; nursery stock, page 53; sale, page 3195; linseed oil, page 1009; mining machinery, page 2111; scaffolding ropes, page 2093; gas meters, page 3739. New York Revised Statutes, 1901.

North Carolina.—Bacon, section 4670; beef, sections 4655–4670; butter, section 4670; cheese, ibid.; concentrated commercial feeding stuffs, section 3967; cotton, sections 4674, 4676; cotton-seed meal, sections 3957, 3961; fertilizers, sections 3949–3951, 3953, 3956; firewood, sections 4667, 4668; fish, sections 4655, 4657, 4670; flaxseed, section 4655; flour, sections 3973–3976, 4670; lumber, sections 4936, 3660–3663, 3665; food, sections 3973–3976, 4670; pitch, sections 4655, 4658, 4666; pork, 4655, 4670; provisions and forage "or other article of commerce," sections 4637, 4669; rice, sections 4655, 4670; shingles, sections 4659, 4665; tar, sections 4655, 4658, 4666; turpentine, sections 4655, 4658, 4666. Revisal of 1905, chapter 99.

Ohio.—Apiaries, beef and pork, biscuit, butter and lard, candy, feed stuffs, fertilizers, fish, flour, food and drugs, intoxicating liquors, lumber, maple sugar, milk, butter and cheese, oils, pot and pearl ashes, salt, soap and candles, tobacco, vinegar and wines. Laning's Revised Statutes, 1905, Title V, chapter 8.

Pennsylvania.—Meat and food products, under act approved May 25, 1907, vested in state sanitary board.

Article III, section 27, of the constitution of 1873, provides:

"No state office shall be continued or created for the inspection or measuring of any merchandise, manufacture, or commodity, but any county or municipality may

appoint such officers, when authorized by law." Held, to abolish state inspectors. (Pepper and Lewis's Digest of Decisions: Ency. Law, 1898.)

Under the decisions the practices of county or municipal inspectors have grown up and the inspection of anthracite and bituminous coal and other articles has been provided for.

South Dakota.—Oils, sections 107–123; Annotated South Dakota Statutes, 1901.

Tennessee.—Tobacco, sections 3379–3407; oils, etc., sections 3408–3434. Tennessee Code, 1906.

Texas.—Food, articles 422, 438; hides and animals; sheep, sections 5357–5364; oils, under act April 5, 1889. Sayles's Civil Texas Code, 1897.

Utah.—Foods, sections 2446, 2450; liquors, ibid.; bees, sections 139–143; scales, section 1534; fruit trees, section 1177. Revised Statutes Utah, 1898.

Virginia.—Cattle, sections 2205–2215; flour and other commodities, section 1844 et seq.; tobacco, section 1897 et seq. Hurst, Code Virginia, 1905.

Vermont.—Flour, sections 4303–4314; hops, sections 4323–4326; iron and nails, sections 4315–4319; lime, sections 4320–4322; lumber and shingles, 3064; oils, sections 4710, 4711. Vermont Statutes, 1894.

West Virginia.—Animals, section 368; oils, section 409; petroleum, sections 2831, 2834. Code West Virginia, 1906.

Wisconsin.—Tree belts, section 1471; oils, sections 1421*a–m;* logs, lumber, etc., sections 1731–1747; foods, page 644. Wisconsin Statutes, 1898.

Wyoming.—Live stock, including special provision for sheep, sections 2048–2100; oil, sections 1200–1208. Revised Statutes Wyoming, 1899.

New Mexico.—Hides, chapter 41. Acts 1900.

[Sixty-first Congress, second session. H. R. 12432.]

A BILL To provide for the inspection and grading of grain entering into interstate commerce, and to secure uniformity in standards and classification of grain, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture shall organize in the Bureau of Plant Industry of his department a section of grain inspection and grading, and shall, according to the rules of the civil service, appoint such experts and other employees as may be deemed by him necessary to carry out the provisions of this act.

SEC. 2. That said Secretary shall also appoint, in accordance with the rules of the civil service, at each of the following cities, to wit, Portland, Maine; Boston; New York; Philadelphia; Baltimore; Chicago; Minneapolis; Duluth; Superior; Kansas City, Missouri; Saint Louis; New Orleans; Seattle; Tacoma; and San Francisco, and at such other important centers of interstate trade and commerce in grain as he may consider necessary or proper for carrying out the provisions of this act, one chief grain inspector and such assistants as may be required to inspect and grade grains as herein provided.

SEC. 3. That said inspectors shall be paid a salary or compensation to be fixed by the Secretary of Agriculture, which shall correspond as near as possible to salaries and compensations paid other officers or employees of the Government performing similar duties.

SEC. 4. That the Secretary of Agriculture shall make all needful rules and regulations governing the inspection and grading herein provided for.

SEC. 5. That said Secretary of Agriculture be, and he is hereby, authorized and required, as soon as may be after the enactment hereof, to determine and fix, according to such standards as he may provide, such classifications and grading of wheat, flax, corn, rye, oats, barley, and other grains as in his judgment the usages of trade may warrant and permit. In the inauguration of the work herein provided he may, if in his judgment the best interest of trade and commerce in said grains require it, adopt the standards of classification and grades now recognized by commercial usages or established by the laws of any State or by boards of trade or chambers of commerce, and may modify or change such classifications or grades from time to time as in his judgment shall be for the best interest of interstate and export grain trade.

SEC. 6. That when such standards are fixed and the classification and grades determined upon the same shall be made matter of permanent record in the Agricultural Department, and public notice thereof shall be given in such manner as the Secretary shall direct, and thereafter such classification and grades shall be known as the United States standard.

SEC. 7. That from and after thirty days after such classifications and grades have been determined upon and fixed, and duly placed on record as hereinafter provided, such classification and grading shall be taken and held to be the standard in all interstate commerce in grain.

SEC. 8. That it shall be the duty of any railroad company, steamship company, or other firm or corporation or private individual engaged in the transportation of grain destined to any State, Territory, or country other than that in which it is received for inspection, or received from any other State, Territory, or country than that to which it is consigned, to notify the chief grain inspector at the place of destination of any consignment of grain, within twenty-four hours after its arrival, that a shipment, cargo, or load of grain is in its, their, or his hands and the place of destination of said grain.

That it shall be unlawful for any person herein named to willfully unload or otherwise discharge any load, cargo, or consignment of grain which has been at any time during the period of its transit an article of interstate commerce and which has not been inspected in accordance with the provisions of this act until the same has been inspected as provided herein.

Upon the receipt of such notice the said chief inspector shall cause the said grain to be inspected and graded in accordance with the classification and standards fixed by said Secretary, and to issue and deliver a certificate of inspection showing such grade and classification in such form as may be provided by rules prescribed by said Secretary.

SEC. 9. That it shall be the duty of said inspectors to inspect and grade all grain which at the time of inspecting and grading of the same has been shipped from any other State, Territory, or country than the State, Territory, or country in which the same is inspected, or is intended for shipment into any other State, Territory, or foreign country before the same is unloaded from the car, vessel, or other vehicle in which the same was or is being transported, and to charge and collect from the owner thereof such fees for the inspection of said grain as may be fixed by the Secretary of Agriculture, who shall have the power to fix the rate of charges for the inspection of grain and the manner in which the same shall be collected, and which charges shall be regulated in such manner as will, in the judgment of the Secretary of Agriculture, produce sufficient revenue only to meet the necessary expenses of the inspection service, said fees to be covered into the Treasury of the United States as miscellaneous receipts in the same manner as for other miscellaneous receipts.

SEC. 10. That no inspector or deputy inspector of grain shall, during his term of service, be interested, directly or indirectly, in the handling, storing, shipping, purchasing, or selling of grain, nor shall he be in the employment of any person or corporation interested in the handling, storing, shipping, purchasing, or selling of grain.

SEC. 11. That any person interested in any consignment of grain inspected under the provisions of this act may appeal from an inspection made by any assistant inspector to the chief inspector at the point where such grain is inspected, and from said chief inspector to the Secretary of Agriculture. Said Secretary shall make all needful rules and regulations to govern appeals.

SEC. 12. That when any grain which having been inspected and certificate of inspection issued hereunder is mixed with any other grain not inspected or with grain which has been inspected and certified at a different grade, the same shall not be shipped out of the State where such mixing is done without being reinspected and graded; any such person or corporation shipping such grain as aforesaid without reinspection shall be deemed guilty of a misdemeanor.

SEC. 13. That the shipment or consignment of any grain aforesaid from any of the places mentioned herein and at such other important centers of interstate trade and commerce in grain necessary for carrying out the provisions of this act to another State or foreign country without the same being inspected and graded as herein provided is hereby prohibited; but where grain has been once inspected hereunder, and remains unmixed with other grain and grades of grain, the same need not be reinspected at the place from which it is exported: *Provided, however*, That said Secretary may, in his discretion, reinspect any cargo of such grain before the same is exported.

SEC. 14. That it shall be the duty of the inspectors and assistants to investigate the handling and weighing of grain inspected by them, and to make such report thereon as the said Secretary may require; and it shall be the duty of every person or corporation weighing such grain to allow inspection of such weighing and handling by said inspectors.

SEC. 15. That when samples of grain are received for inspection and grading at any of the places named herein, it shall be the duty of the chief inspector or his assistants to inspect and fix a grade upon said grain and to make a report and transmit the same to the owner of such sample of grain, and the Secretary of Agriculture is hereby authorized to fix such charges as in his judgment is reasonable for the inspection and grading of such sample of grain, such charges to be paid by the owner of such sample of grain.

SEC. 16. That any person or corporation who willfully does any act prohibited herein or who willfully refuses or neglects to do or perform the things required of him under the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in a sum not to exceed five thousand dollars, or by imprisonment not to exceed one year, or by both fine and imprisonment.

SEC. 17. That for salaries and for all other expenses in the city of Washington or elsewhere deemed necessary by the Secretary of Agriculture to carry out the provisions of this act there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, eight hundred and fifty thousand dollars.

SEC. 18. That this act shall take effect and be in force from and after the first day of July, nineteen hundred and ten.

STATEMENT OF MR. GEORGE S. JACKSON, PRESIDENT OF THE BALTIMORE CHAMBER OF COMMERCE, AND GRAIN INSPECTOR.

Mr. WANGER. First give your name and position to the reporter.

Mr. JACKSON. I am president of the Chamber of Commerce of Baltimore, and a grain inspector. The Baltimore Chamber of Commerce opposes this bill for several reasons. Amongst others is the absolute inability of the government officials properly to inspect grain. It is a matter that requires more than written laws to make rules to inspect such a commodity as grain. The grain that is grown in the United States is grain produced in sections of the country where the climate is so different, and where the kind of grain is so different, and where the same seed planted in two or three different sections produces crops so entirely different that if you are going to grade grain under fixed rules, made by people who do not understand the grading of grain, you will immediately be in such hot water that it would be impossible to handle the crops of the United States except under the most adverse conditions.

There is a great amount of talk about the complaints concerning grading. The complaints that have been discussed in other committees have been under two heads; the complaints of the farmers that they do not get their grading on their grain coming to the market, and the complaints of people who have said that there are complaints from foreign countries that our grain is not properly inspected out, thereby making a false market in Europe and other countries for our grains. That is, that the farmers of this country by this false inspection, as it is claimed, do not get the full value of the grain.

Now, gentlemen, it seems so foolish to think that the merchants of this country who have grain to sell would do such things that they would kill their own business, that it hardly seems worth trying to contradict that statement. Now, when this question was first mooted, two years ago, I traveled all over Europe for the purpose of finding out whether this complaint was well founded or not. There was a complaint in Europe, but the complaint was this, that every other country except America sells its grain on the inspection of the buyer; that the men in Argentina and Russia sell their grain at a certain price, say 2 red, but they do not get that price, but do get the price that the man who buys it says it is entitled to receive in Europe. The merchants in this country will not sell that way.

Two years ago an effort was made in Europe to force the market by calling our inspection certificate names in order to get the market into that forced condition, and instead of selling our wheat at $1.10

a man on the other side would say, "This is not No. 2 red wheat; it is only worth $1.06." Now, Argentina and Russia sell their grain at a higher price on paper than America, but they do not get that price. America gets more for its grain than any other country, because it insists on the fact that it shall sell its grain on the American plan of inspection, instead of upon the buyer's plan of inspection, who is influenced largely by the market when it arrives.

Mr. TOWNSEND. You say the Argentina dealer gets more on paper?

Mr. JACKSON. Yes; he does not sell it at that price, however, as a farmer, but sells at $1.10 delivered at Liverpool, subject to its being of that certain and specific quality. He does not have the say as to whether it really is of that specific quality. It is the man at Liverpool that says that.

Mr. ADAMSON. If it does not come up to the prescribed grade, the man that buys it determines that fact, does he?

Mr. JACKSON. Yes.

Mr. TOWNSEND. Is it not a fact that they do reduce the grade on Argentina wheat when they get it over there?

Mr. JACKSON. Yes, sir. The average, I should say, is 87 per cent of the arrivals where a reduction of grade is made after arrival.

Mr. ADAMSON. It is regraded because the article does not come up to the supposed grade?

Mr. JACKSON. Yes; they do not sell it on their own grade. They sell it on the buyer's grade, and a committee of three merchants, who are appointed at this port, go to this ship and take samples of it, and say what its value is below the selling price at the time the valuation is made, and they determine that. We can not get justice over there, because the people who do it are the buyers.

Mr. TOWNSEND. What are the Argentina shippers doing about that?

Mr. JACKSON. They give the farmer 10 cent a bushel under that valuation of the grain, the merchant does, so as not to be caught in this position. In America the merchant is satisfied with 2 cents, and he knows what he is going to get for it, but the farmer in Argentina and in Russia has to take 10 cents under the price, because the merchant who buys never knows what he is going to get for his grain until the ultimate buyer has passed upon it.

Mr. SIMS. Do you mean to say that they fraudulently undervalue it?

Mr. JACKSON. I say the buyer will take every advantage to make money for himself.

Mr. SIMS. That would seem to be an organized purpose not to give the true value for it.

Mr. JACKSON. They say it is not up to grade.

Mr. SIMS. That indicates a fraudulent combination among the buyers not to give the grain a just grading?

Mr. JACKSON. That is my opinion. America will not sell in that way, and therefore they try to attack the validity of our certificate. My firm has been shipping grain there thirty or forty years, and I have hardly ever heard complaints of the quality. They would like us to sell them the grain on such a basis that they could determine what the grain is, and not ourselves. We do not settle the grading of the grain. The chambers of commerce of the various markets that we ship from fix the grades. If the foreign buyer could buy on the American grade at their own inspection, just think what an

advantage they would have, because all grain will not carry in proper condition.

Mr. SIMS. So far as American grain is concerned, I understand the European purchaser accepts the grade as fixed here?

Mr. JACKSON. Yes, as final.

Mr. TOWNSEND. As between the grain of Argentina and United States grain, which receives the better price?

Mr. JACKSON. The American grain. The farmer gets a better price for the American grain.

Mr. TOWNSEND. I am talking about the shipper, the man who sells the wheat in Liverpool?

Mr. JACKSON. As a matter of quotation price I should say the Argentine man does, because he guarantees that the wheat he sells is what the buyer wants. The American only guarantees that it shall be certified as of the grade he sells.

Mr. TOWNSEND. So that the result of that is a benefit to the Argentine shipper?

Mr. JACKSON. No, sir; because he does not actually get that money.

Mr. ADAMSON. After adjusting the grades and making the settlements, who gets the most money?

Mr. JACKSON. The American shipper, and consequently the American farmer gets more.

Mr. ADAMSON. The same thing applies to cotton. If it is higher or below good or middling the price is determined in accordance with the grade. You have got to adjust the price according to what it is?

Mr. JACKSON. Yes. The American merchant will not sell on the buyer's inspection. He will only sell on the inspection of the port he ships from.

Mr. SIMS. Are the grain raisers of this country and the farmers opposed to this bill?

Mr. JACKSON. I could not speak for them. I do not know.

Mr. SIMS. You say they get a better price under the present method?

Mr. JACKSON. Yes. If we had to pay for the grading on the other side we would be compelled to pay much less to the farmer here for that grain, because we could never know what we are going to get for the grain until the grade is determined on the other side.

Mr. ADAMSON. You would regard the doubt in your own favor and take off enough to allow for that?

Mr. JACKSON. Yes. Otherwise we would have to go out of business.

Mr. SIMS. Does the wheat actually deteriorate between the American port and the foreign port?

Mr. JACKSON. No, sir; it does not.

Mr. ESCH. Was not the American market damaged some time ago by statements to the effect that shipments of corn from Galveston and Norfolk and other ports were found to be soft upon arrival on the other side?

Mr. JACKSON. I think so.

Mr. ESCH. Would a grain inspection prevent such shipments?

Mr. JACKSON. No, sir.

Mr. ESCH. And thus limit or lessen the injury to the reputation of American grain abroad?

Mr. JACKSON. No. The fact that it is inspected by the Government would not make the corn keep any better in transit.

Mr. ESCH. The injury comes from shipment?

Mr. JACKSON. Yes. Corn will change while crossing the ocean, and it will change while it is in storage and while it is in your warehouse.

Mr. ADAMSON. It changes by reason of coming in contact with moisture?

Mr. JACKSON. I am not capable of saying what causes it. Technical people assign various causes, but I should say if you put it in this room to-day and should come here next week you might find it would have gotten soft.

Mr. ADAMSON. If it is exposed to damp weather it certainly will become soft.

Mr. JACKSON. Yes; and if it is exposed to heat it will change. Now most of the trouble we have found in the last year has come from the fact that the grain is loaded over the shaft of the steamer crossing. The Government has had experts making tests on that in the last year, and nearly all the complaint has been caused by the heat in those shafts coming up into the corn and changing it.

Mr. SIMS. The complaint does not come so much as to wheat?

Mr. JACKSON. No, sir; wheat is not affected by climatic change or moisture or heat like corn.

Mr. SIMS. Is it affected at all?

Mr. JACKSON. Of course if you subject it to a great heat it would be, but corn is liable to undergo a greater change. This country is gradually getting out of the wheat export business. The whole thing now would apply to wheat, which is a commodity which changes in its nature by its surroundings and by its own inherent qualities.

Mr. SIMS. You say our exports of wheat are gradually declining all the time?

Mr. JACKSON. Oh, yes; tremendously. There is hardly any export of wheat now.

Mr. SIMS. When it gets so that we do not export any we might import some occasionally?

Mr. JACKSON. We will certainly have to import it, sir, because it is selling right across the Canadian border at 96 cents, and in Liverpool at 95 cents, and in New York at $1.15, and in Chicago at $1.03.

Mr. SIMS. What is the tariff in Canada?

Mr. BARTLETT. Twenty-five cents a bushel, I think.

Mr. SIMS. If we had no tariff on wheat the price would be cheaper than it is now?

Mr. JACKSON. Yes; we would put the price of Canadian grain on a parity with American.

Mr. SIMS. We are complaining of the high cost of living and of breadstuffs, and if the tariff were taken off, the cost of flour would be cheaper?

Mr. JACKSON. Yes, sir.

Mr. TOWNSEND. Do you think that bread would be cheaper here if we had free Canadian wheat?

Mr. JACKSON. I do.

Mr. TOWNSEND. Is bread cheaper in London than it is here?

Mr. JACKSON. Yes. In Liverpool wheat was 97, and in Chicago 102.

Mr. ADAMSON. You can buy twice as much sugar in London as you can here for the same money.

Mr. STEVENS. Have you kept close track of Canadian wheat at Winnipeg as compared with Minneapolis wheat or Duluth wheat?

Mr. JACKSON. Yes, sir; that is my business.

Mr. STEVENS. Don't you think that in the last five or six years during some months of the year wheat has been actually higher in Winnepeg than in Minneapolis or Duluth?

Mr. JACKSON. Of course.

Mr. STEVENS. So that it is not true that throughout the year there is a sufficiently lower price at Winnipeg to warrant importations into the United States?

Mr. JACKSON. Your question is rather misleading. You say it is not true that it warrants it. Sometimes they do not grow any wheat up there. Sometimes they have a famine.

Mr. STEVENS. That has not been true for the last five or six years.

Mr. JACKSON. On the average, wheat is so much lower in Winnipeg than it is in the United States that it is almost always from 5 to 10 cents a bushel cheaper than in America.

The CHAIRMAN. There are about three or four months in the year, as I recall, when wheat is actually higher in Winnipeg than it is in Minneapolis or Duluth. Is not that true?

Mr. JACKSON. I could not say that, because Winnipeg gets her wheat after those two. If the new crop had not come in at Winnipeg it might be higher there than in Minneapolis, but from December to July the price, on the average, at Chicago would be very much higher than the price at Winnipeg.

Mr. STEVENS. The freight rate, I see, is 12 cents from Winnipeg to Minneapolis.

Mr. BARTLETT. Twelve cents a hundred?

Mr. STEVENS. Yes. If that were true it would be about what difference?

Mr. JACKSON. Seven and one-fourth cents a bushel.

Mr. STEVENS. That must be added now to the Canadian price in order to get at the true value at Minneapolis, must it not?

Mr. JACKSON. Yes. That would be the difference.

Mr. SIMS. Is there any difference in the freight?

Mr. STEVENS. Of course there is. But is it not true that over a majority of the year it would be impossible to import wheat into the United States if there was not any tariff?

Mr. JACKSON. No, sir; because the Canadian stuff would bring so much more money than American wheat that you could import it with ease.

Mr. STEVENS. Is it better wheat?

Mr. JACKSON. Yes; it is much better, because it is raised from virgin soil. It is much more valuable as a milling proposition; so much so that the question of freight in there would be wiped out immediately.

Mr. ADAMSON. When it is higher here, that is the best time to import it here?

Mr. JACKSON. Yes, of course. The only time you can bring it forward would be the time you could do it at a profit.

Mr. WANGER. What has this to do with the inspection?

Mr. JACKSON. Nothing whatever. I am not an expert upon that subject.

Mr. ADAMSON. Of course local and other conditions enter into the problem, do they not?

Mr. WANGER. There are more people here than can be heard this morning on the question of inspection; so please confine yourself to the matter of inspection.

Mr. SIMS. Is it not a legitimate question, Mr. Chairman, to ask if Canadian wheat is intrinsically more valuable than American wheat?

Mr. WANGER. It would if it had reference to the question of inspection, and he says not. Have you anything to offer, Mr. Jackson?

Mr. JACKSON. I would like to offer a pamphlet which has been prepared, which explains the difference in grades as they actually exist.

Mr. WANGER. Hand it to the reporter and it will be printed in the hearings.

(Following is the pamphlet referred to:)

GRADES AND GRADING OF GRAIN.

The kind of grain—that is to say, wheat, corn, oats, etc.—is seriously dependent upon what one shall plant. If corn be planted, corn is produced. The term "kind of grain" is frequently and inaccurately used to refer to the "grade of grain." Properly speaking "kind of grain" refers only to the different varieties, while "grade" refers to the commercial subdivisions of a particular kind.

OF THE GROWTH AND HANDLING OF GRAIN.

The factors determining the grade of grain are numerous and interdependent. They may be said to be as follows:

1. *The quality of the seed.*—In many parts of the country it has been the custom of farmers to retain from their crops a portion thereof for use as seed. The result is that the seed runs out (i. e., loses its force), and the productiveness is lessened both in quality and in quantity.

2. *The time of planting, particularly with relation to the preceding and succeeding climatic conditions.*—If either of these conditions be adverse, there is a deleterious effect upon the crop. If the germination of the seed shall be retarded or unduly advanced, the grain produced, if any, can not be of superior quality.

3. *The character of the soil itself.*—It is not only well known but has been scientifically demonstrated that certain soil is peculiarly adapted for certain grains while the same soil will not produce an advantageous crop of another grain. One soil may be considered strong but yet not suited for a particular kind of grain; nevertheless, having been tilled it will produce the grain, but grain necessarily inferior to that grown upon an appropriate soil.

4. *The rotation of crops.*—This fact is intimately connected with the preceding one because of the weakness or strength which a preceding crop may have given the soil. Commercially speaking, the effect of rotation of crops is most seriously felt in the crop of the first year when the rotation begins. Suppose that the previous crop has been flax or buckwheat, as is the case with new soil, and the present crop is wheat or oats. The flax or buckwheat hangs over to a greater or less extent, matures about the same time as the wheat or oats and becomes mixed with it, the percentage of flax or buckwheat varying with the amount which springs up.

Connected with the rotation of crops is the fallow land—that is to say, land which is permitted for a reasonable time to lie idle and recoup itself.

5. *The climate.*—This factor has a strong influence upon the grade of the crop and is divisible into three subheads:

(a) *The climate during growth.*—This may be favorable or adverse; it may be too hot or too cold for the particular grain, either during germination, during growth, or at harvest time. So, also, it may be too moist or too dry during any of said periods.

(b) *The climate at and during harvest.*—It is doubted if dry warm weather has a deleterious effect upon grain during the harvest time. If, however, the grain becomes wet during harvest or while in shock, the grain must be inferior.

(c) *Climate during transportation.*—What has been said respecting climatic conditions during the growth of grain is true to a certain extent during the period of transportation. Sudden changes of temperature, particularly in certain months, produce changes in the grain inherent in their nature. This is true of grain during the germinating season. Corn, for example, germinates in May, and if the month shall be a moist damp one, corn will commence to germinate, and "heat" to such an extent that it will mold and become unfit, unless properly cared for (and the heating may become so pronounced that it can not thereafter be cared for), to such an extent that it is not fit for consumption of either man or beast.

The "germinating season," being the months in which grain is customarily planted, is a particularly hazardous time in which to transport; this season is from about the middle of March to the middle of June. During this period grain has a natural and inherent tendency to heat and get out of condition.

In the present method of transportation by rail, freight cars are practically air tight; no extensive circulation of air at least can get to the grain. The temperature of the grain on the day on which it is loaded at point of origin may be practically the same or widely variant at destination, all dependent upon changes in climate during transit. When the transportation is by water, the temperature of the water, to a greater or less extent, changes the temperature of the grain in the vessel. If the vessel move in the Gulf Stream, the warmth of the water is communicated to the grain, causing it to deteriorate more rapidly than if the transportation had been through water where the warm currents do not prevail.

6. *Method of harvesting and thrashing.*—Slack, careless, and crude methods of harvesting and thrashing grain are not infrequently the cause of lower grades. If the farmer is careless or if the machinery be crude, the result will be a mixture with the grain of dirt and dust, which ought not to be present. This is particularly true in the newer sections of the country, where it is said on good authority that the grain offered for sale has in it chunks of earth, roots, and other articles which could easily have been removed by the exercise of the slightest care.

7. *Methods of transportation.*—Some reference has heretofore been made to this factor, and it is not necessary to elaborate on what has been said except that not only the manner of transportation, but the relation of the time of transportation to the condition of the grain, coupled with the climate, may or may not have as factors a deleterious effect upon the grain.

8. *Methods of handling.*—This occurs upon the farm after harvesting, such as keeping the grain dry, permitting it to pass through the "sweat," proper airing, and other prudent handling. The same care which should be used on the farm is necessary in the subsequent handling of the grain, whether at the country elevator, the terminal warehouse, or the elevator at the seaboard.

OF THE IMPERFECTIONS OF GRAIN.

Those things which make a certain lot or quantity of grain less valuable commercially are divisible into two classes:

(1) *Inherent imperfections.*—These inherent imperfections are those reasons for which grain is not and can not be of the highest grade. Such imperfections are shriveled grains (causing a bushel to weigh less than the standard of the particular grain); smut, caused probably by climatic conditions; the presence of an undue amount of moisture, occasioned either by climatic conditions or by carelessness in harvest or handling; absence of proper color, called "stain," due to climatic conditions. None of these inherent imperfections can be removed except by expensive process, and then only with slight success. The processes of "bleaching" and "washing" and "scouring" will, to a certain extent, remove smut and change the color, while drying will drive off excessive moisture. No process, however, will change shriveled grains and make them merchantable.

(2) *Foreign imperfections.*—These are such as dirt, dust, other grain than the particular grain under consideration, chaff, straws, stones, etc. These imperfections are largely removable by the use of improved and expensive machinery, but at a small relative cost per bushel. It is almost impossible to separate certain grains from each other by reason of the fact that the several kernels are of substantially the same weight and size. The process of separation of grain and dirt is one by draft and gravity, all machines for the purpose depending upon these two forces.

GRAIN FROM THE FARM TO THE EUROPEAN CONSUMER.

Perhaps no better way to consider the grading and handling of grain can be used than to follow three samples of the same kind of grain from the time it is sown until it reaches a destination in Europe. Let there be planted upon the same farm three fields of wheat, known, respectively, as No. 1, No. 2, and No. 3. Let the seed, soil, climate, rotation of crops, and other factors be particularly favorable to field No. 1.

Let the seed and the other factors for No. 2 be to a greater or less extent unfavorable to the grain. Suppose the field is low, and therefore there is a surplus of moisture. Suppose that field No. 3 had totally unfavorable factors, particularly in respect to the growth of the crop of the previous year and carelessness in the harvesting and handling of the grain from this field and unfavorable weather at the time of harvest. Finally, let it be supposed that each field produces a carload of grain, and suppose that the grain is wheat.

Wheat is of two kinds, winter and spring; each of these are divisible into particular grades.

In the sale of wheat the farmer will ordinarily take a sample to the country elevator; in the supposed case he will take three samples. That from field No. 1 has a plump berry, reasonably clean, tests as much as 60 pounds or more to the measured bushel, and is first class in every respect. Sample No. 2 will contain some shriveled grains, a percentage of flax (or oats), a considerable amount of dirt, chaff, straws, and sticks, and will test 58 pounds to the measured bushel. Sample No. 3 is very much shriveled, tests 55 pounds to the measured bushel, has a large mixture of other grains with it, and contains a very large percentage of dirt and foreign articles.

The farmer receives the offers, technically "bids," of the dealer for the three cars. By reason of the difference in quality, he must naturally make different bids for the three cars. In making these bids the proposed purchaser must rely upon his own judgment concerning the price which the several cars will bring at the nearest terminal market. In order to ascertain this, he must use his best judgment concerning what the grain will grade at the terminal market.

This determines the price at destination; by subtracting therefrom the rate of freight per bushel, he is able to make a reasonably intelligent offer for the grain. If the farmer be dissatisfied with the offer because he thinks the market is favorable or because the dealer does not offer as much, in the judgment of the farmer, as the present market warrants (and the daily paper has told him the market at the terminal), he consults the competing buyer at the town, if any. In any event the sale sooner or later is made.

Not to digress, but it is a fact that in certain sections of the country there are "lines" of elevators controlled by large dealers at the terminal market. The man in charge of the elevator is the agent of the large buyer. He receives his instructions and the only element of judgment exercised by him in that event is whether or not the particular grain will be a certain grade at destination.

Where, however, the buyer is independent, he must pass judgment, not only upon the market but also upon the grade. The investigation by the Interstate Commerce Commission under joint resolution in 1906 was with respect to the "line" elevators. In some places there are what are known as "farmers' elevators," being cooperative concerns where the grain is put in by the several farmers and sold at a particular time.

To return, the local elevator man has purchased the 3 cars of wheat from the three fields of the farmer. The grain from field No. 1 he classes as No. 1. It is ready for shipment and consumption without any process other than that of loading and transportation. That from field No. 2 needs cleaning in order to improve it. Put through fans or suction draft or other improved machinery there is removed a considerable number of the light grains, all of the dust, dirt, chaff, straws, sticks, and other foreign articles, so that the remaining wheat is nearly, if not quite, as good as that from the first field. The cost of this process will vary according to the loss in weight of the foreign matter removed and the cost of operating the machinery; it will be impossible to make an average because of the varying conditions by the process. However, the elevator man is in a position, if he chooses, to run together the wheat from field No. 1 and that from field No. 2, after cleaning, and make 2 cars of fair No. 1 wheat. In truth and in fact the process of cleaning is not done to any great extent at the country elevators, for the reason that the machinery is expensive to purchase; also for the further reason that the machinery might not be in use continually year after year. It may be in use for a particular season and then not again needed for two or three seasons. This results from the varying climate each season at a particular place. This work, therefore, is usually done at the terminals.

But the country elevator man has the grain from No. 3 field. All this is shriveled grain mixed with dirt and foreign grain, chaff, sticks, and stones; the wheat may be

smutty or it may have garlic or rye mixed with it. By mechanical process the foreign matter other than foreign grain (i. e., dirt, dust, sticks, etc.) can be removed, but it is almost impossible to remove garlic and some other foreign articles (such as rye) from wheat. All that the country elevator man can do is to remove the dirt, sticks, stones, and other distinctly foreign articles. When that process has been done he has improved the grain to the utmost. If this wheat is not badly shriveled, limited quantities may be mixed with a wheat of a better grade, thereby increasing the market price for the lot.

The mixing of different grades of grain is prohibited in Canada at the present time, with the result that the low grades of grain sell for 5 cents per bushel in Canada less than they do in this country right across the border. This figure is relative, not absolute. Grain in Canada sells for less than it does in this country under normal conditions, but the difference in price between the grades before mixing was prohibited in Canada was substantially the same in both countries.

Whether or not the grain is cleaned at the country elevator and whether or not it is mixed, it is sold at or shipped on consignment to a terminal market. On arriving at the terminal market the car is inspected and sampled. For the purpose of sampling, a device called a "trier" is placed down through the contents of the car in several places, so that the average of the car is obtained. These samples are then taken to the board of trade or chamber of commerce, where the goods are offered for sale by the receiver. The grain is rarely kept longer than the second day and is sold to a shipper, if for shipment beyond, or to a local dealer, if for local consumption. Ordinarily the contents of the car will be transferred to a so-called eastern car. In this event the actual tare of the car can be obtained. In any event the grain is weighed either in the car or by "hopper scales," if the grain goes into a terminal elevator.

Nearly every board of trade has its inspection department for the purpose of inspecting and grading grain. Some of these departments have been in existence for a long number of years. Inspectors are under bond, and should they make an error in judgment there is an appeal to the chief inspector and from him to the board of directors or to a committee of the board of trade.

Let us suppose that the wheat from the three fields has not been mixed or cleaned either at the country elevator or at the terminal market and let the three cars come through to the seaboard. Let all of the cars be delayed in transit and let there be unusual changes in the weather during the transit period. That from field No. 1 will hardly be harmed because of its superior quality; that from field No. 2 will be warm and commence to germinate; that from field No. 3 will have passed to such a stage of germination that it is hot; in fact, hot enough to cook an egg placed within. On arrival at the seaboard, whether consigned or sold, the three cars would pass through the same process as is stated for the terminal market.

At certain export ports there exist driers, the purpose of which is to drive off the moisture from that grain which has a superabundance. In the illustration, grain from fields No. 2 and No. 3 would doubtless be dried. When dried it will stand transportation for a long distance and without deterioration. The grain is to be sold upon the other side. Hitherto it has had apparently only the competition of American grain; in truth and in fact, it had the competition of wheat from Argentina, from India, and Russia. This competition arises because of the fact that the Liverpool, Hamburg, or other European markets are usually more or less "in line," i. e., in harmony, with the Chicago market. The sale is accomplished in Europe either by means of offer from or to the dealer here. The terms of the sale are that the weight and grade of the grain as per the board of trade or chamber of commerce of the American trade shall govern; weights are guaranteed or may be insured. Qualities of grain may be guaranteed by members of the board of trade or chamber of commerce. If there be an error made in grading the chamber of commerce pays the claim, if it be a proper one. Such was done some years ago to quite a large amount in certain shipments from Newport News. Doubtless fictitious claims are made, for it is the common experience of mankind that when the market has declined the quality of the goods has seriously deteriorated; in short, the market changes are largely a controlling factor in respect to claims for damages.

Wheat from other countries than the United States which is sold in the European markets is sold upon what are called "rye terms," that is to say, the weights and quality of grain is guaranteed at destination, the vendor assuming the liability for deterioration in transit. It will be observed that for some reason American grown grain has always been sold under such terms that the vendee assumes the hazards of transportation. The vessel and its cargo are insured against the hazards of the sea and insurance may be obtained against deterioration of grain in transit. The general custom of the trade, however, is that the hazards of transportation are assumed by the vendee. This is also true with respect to grain purchased at a terminal market

in this country. The shipment from the country elevator to the terminal market is made on the basis of grade and weight at the terminal market; such is the rule. The technical name for such a transaction would be "Chicago terms," Baltimore terms," etc. This designation, however, means more than the question of grade and weight, because the several exchanges have certain rules respecting the acceptance of a lower grade of grain upon a contract for a higher grade.

To return to the grain about to be exported from the port; it may be a berth lot or a cargo, the former being a part load, the latter a full load. Perhaps the bottom may leak a trifle, perhaps the grain may be somewhat damp and be loaded near a bulkhead or near the boilers. Perhaps the transit of the vessel may be through the Gulf Stream for a long period of time, as from Galveston or New Orleans. Perhaps the vessel may strain in storms; perhaps the vessel, upon arrival at destination, may be delayed a week or two weeks before she can berth and discharge; all of these are possibilities and in all instances some one of these factors is a probability. The grain takes serious chances of deterioration. Against the grain has been drawn papers for the value thereof; the consignee has at least accepted the drafts if not paid them. If the grain is out of condition, and sometimes when it has been proven to have been in condition, the consignee makes a claim and his claim is, under the contract of purchase and sale, only a legal one when he can satisfactorily prove that the grain loaded on the vessel was not at the port of origin of the grade and quality which the certificate of inspection showed it to be, or was of a different weight from that represented. By the contract, the vendee assumes the risks of transportation, including deterioration or depreciation. Having assumed these risks, he ought to abide by his bargain; but when the market has declined while the goods are in transit, frail human nature is prone to seek some relief from the adversities of a change in price due to commercial conditions.

Mr. SIMS. Your idea is that the present bill will not benefit the wheat industry or the wheat exporter in the United States?

Mr. JACKSON. Yes. It would make the farmer dissatisfied. He would not get any more result than he does now, and it would be simply impossible to carry it out unless you had an inspector at every railroad station in this country, because the farmer would say that he did not get any better terms than he did before.

Representative GRONNA, of North Dakota. Mr. Chairman, may I ask the witness a question on that point?

Mr. WANGER. Yes; go ahead.

Mr. GRONNA. You make the statement that Canadian wheat is much superior to American wheat?

Mr. JACKSON. Yes, sir.

Mr. GRONNA. Do you know that of your own knowledge?

Mr. JACKSON. I do.

Mr. GRONNA. I want to say to the gentleman that I have raised wheat for twenty-five years in North Dakota, and I take issue with the gentleman on that point.

Mr. ADAMSON. That is right over the Canadian line, is it not?

Mr. GRONNA. That depends on the year. One year you raise a good quality of wheat, and other years not so good.

Mr. ADAMSON. That is so close to the line that there can not be any difference.

Mr. JACKSON. Alberta wheat makes that weighs 67 pounds to the bushel.

Mr. GRONNA. I am surprised that any man who knows anything about wheat should say that as to any wheat mixed, 67 pounds to the bushel. I want to make this point——

Mr. STEVENS. Let this gentleman finish first. Let one go on at a time, Mr. Gronna.

Mr. JACKSON. On the part of the Chamber of Commerce of Baltimore, I have entered my protest against this, and have nothing more to say, unless somebody wants to ask me a question.

Mr. WANGER. Now, Mr. Gronna, do you desire to be heard?

Mr. GRONNA. If the gentlemen who are here want to go on first, I am perfectly willing to wait until later.

Mr. WANGER. In the regular order you would be heard first.

STATEMENT OF MR. JAMES L. KING, REPRESENTING THE COMMERCIAL EXCHANGE OF PHILADELPHIA, PA.

Mr. KING. Mr. Chairman, I would like to file, for the Commercial Exchange of Philadelphia, the briefs we have prepared. We do not consider it necessary to go into detail in this. We were here two years ago and entered our objections then in a rather elaborate way. We have written our objections here, and I would like to submit this brief to the committee. We are against these bills generally because they are inimical to the interests of the grain trade and the producers and purchasers of grain generally.

(The following was submitted by Mr. King:)

THE COMMERCIAL EXCHANGE OF PHILADELPHIA.

[H. R. 16897.]

The objection of the Commercial Exchange of Philadelphia to this bill is, broadly speaking, that it provides for something that is unnecessary, and, regarding section 1, that the authorized compensation would not warrant the employment of a bureau chief, or chief inspector, competent to fill the position; second, that grain experts require even more than three years of experience in inspecting and grading of grain or buying grain, and that competent inspectors such as are employed to-day by the boards of trade and exchanges seldom have experience in buying grain; third, that it is believed to be impossible to obtain enough good grain inspectors to fill the positions created by the bill, and that the two years of practical experience that are named as the requirement to appointment would not be sufficient training for the duties of the position, if a requisite number of inspectors thus experienced could be found; furthermore, that if it were impossible to find the adequate number of inspectors, it would be equally impossible to find the required number of deputies, having the same qualifications as inspectors; and that the fees collected at the place where the duties have been performed would be, in many cases, far short of amounting to sufficient to pay the salaries, if the fees are to be reasonably based, as at present.

There would be no objection to the provisions of section 2, which require the inspectors to take an oath of office, but it is suggested that the pay would scarcely compensate an inspector engaging to pay all damages to any person or persons who may be injured by reason of his neglect to comply with the laws or rules or regulations. The responsibility should be upon the Government behind the inspectors, just as it is at present upon the boards of trade or exchanges by which the inspectors are employed.

Objection is urged to the phraseology of section 3, which provides "that it shall be the duty of said inspectors and their deputies to inspect and grade all grain which at the time of inspection and grading has been shipped from any other State, Territory, or country than the State, Territory, or country in which the same is inspected, or is intended for shipment into any other State, Territory, or foreign country before the same is unloaded from the car, vessel, or other vehicle in which the same was or is being transported," but nowhere says that the grain shall be inspected when loaded or as loaded; and further provides "that the inspection of any consignment of grain may be waived, as provided for in section eight of this act," which is decidedly objectionable if the bill were otherwise acceptable, because if the bill is to permit waivers of the kind provided in section 8 it would soon be found that there would be no need for the legislation or the department. Facing this contingency, why enact this law?

Section 4 is objected to because it gives too great discretion and power to the Secretary of Agriculture and might result greatly to the disadvantage of certain markets where the charges have been reduced to a minimum. In fact, it might be urged that the creation of a large and useless bureau, such as this is likely to become if the law is enacted, would result in the overtaxation of trade with high charges that would be made necessary to keep up an army of employees. While some markets would be

self-sustaining, there would be many other places at which inspectors would be requisite that would not begin to produce enough revenue to sustain them.

Section 5 is not objected to, except as a part of the whole unnecessary scheme.

Section 6 seems to presuppose that the present system of grading and classification ought to be entirely discarded, thus intimating that the appointees of a two-year experience, or the Secretary without any, can devise better grades than the exchanges have evolved from half a century's experience.

Section 7 provides that the Secretary shall charge for the official or certified copies of the classification and grades, thus making an expense out of what the exchanges now furnish free.

Section 8 provides a loophole where the whole scheme may be made abortive in exceptions to the law. It would be an easy matter for large dealers to hire, buy, or build private storehouses or to store their grain in special bins in public warehouses.

Section 9 would seem to conflict with section 3, the ninth section providing for inspection at destination, while the third section provides for inspection of all grain which at the time has been shipped—or is intended for shipment—before the same in unloaded, etc. Does this mean that the grain will have to be inspected twice by government inspectors and two fees paid, or is the phraseology purposely made vague to hide the defects of the measure?

Section 10 gives the Secretary the power to fix the charges to the public and salaries of the inspectors, both of which have been covered in section 4. It is unnecessary, therefore, to do more than to repeat the objections urged against section 4 and to suggest that section 10 may have been put in to round out the printed page.

[R. H. 12432.]

Taking the bill by sections, the objection of the Commercial Exchange of Philadelphia to the first is that it is believed neither the Secretary of Agriculture nor his Bureau of Plant Industry has had the requisite experience to qualify either for the duties proposed in the bill if it were desirable to submit to a test this experiment in paternalism.

The second section gives the Secretary of Agriculture the discretion to appoint grain inspectors and assistants at certain named places and at such other important centers as he may consider necessary. It is objected to this section that it gives too much authority to the Secretary, and might result in very serious injury to the commercial interests of any community that the Secretary should see fit to discriminate against under his broad powers.

Section 3 provides that compensation and salaries shall be fixed by the Secretary which shall correspond to other governmental salaries, etc. It might be urged against this that those cities which under existing arrangements have very low inspection charges might under the proposed arrangement, or experiment, be subjected to very high rates, and thus be deprived of the advantages which they have evolved from time and experience.

Section 4 gives the Secretary the power to prescribe rules and regulations governing the inspection and grading, which is objected to, notwithstanding the respect which this exchange has for the Secretary of Agriculture and the knowledge it has of the excellence of the work that has been carried on under his name and in his department of the Government, because it gives entirely too much authority to the Secretary, who, being human, can not be infallible.

Section 5 provides that the secretary shall fix and determine the standards for classifying and grading wheat, flax, corn, rye, oats, barley, and other grains, according to his judgment, and may modify or change such classifications or grades as his judgment may dictate, for the best interest of interstate and export grain trade. The same objection may be urged as to the preceding section, that too much power is given the secretary, who can not be omniscient. The present systems are not universally satisfactory, and have at times given very serious cause for complaint, but there is no assurance that a governmental bureau will be better, or that it will stand between the buyer and poor grain accompanied with a federal certificate; while there are evidences that the different trade bodies which have supervision over their own inspection departments are bettering their methods. Complaints against local inspection are, in the East at least, reduced to a minimum.

Sections 6 and 7, providing that the standards when fixed shall become official, are objected to perfunctorily as a part of the objection to the entire scheme of federal inspection.

Section 8 provides that it shall be the duty of those engaged in the transportation of grain (in interstate commerce) "or country other than that in which it is received for inspection, or received from any other State, Territory, or country than that to which it is consigned, to notify the chief grain inspector at the place of destination, of

any consignment of grain, within twenty-four hours after its arrival, that a shipment, cargo, or load of grain is in hand and the place of destination of such grain;" that it shall be unlawful to unload such grain (in interstate commerce) unless lawfully inspected in accordance with the act; and that the inspector shall issue the necessary certificate, as prescribed by the secretary. Those familiar with the grain trade as done to-day, will not need to be told that a very large proportion of the business in grain, whether for mere interstate trade or for export, is done upon the point of shipment inspection—that is to say, western inspection, at the time of loading; and that neither this section 8 nor section 9 clearly provides for any inspection at the time of loading, which inspection has become customary and necessary in modern business transactions. Taking section 9 into consideration at this juncture, the latter says that it shall be the duty of the inspectors to inspect and grade all grain which has been shipped from any other State, Territory, etc., than the State, Territory, etc., in which the same is inspected, or is intended for shipment into any other State, etc., before the same is unloaded from the car, vessel, or other vehicle in which the same was or is being transported, and to charge and collect fees, etc.

Possibly the reason why no provision is made for inspection at the time of loading, or while grain is being loaded, is that the Federal Government does not or the framers of this legislation do not claim the right to inspect until after the grain shall have entered into interstate commerce, or mistrust their power to interfere with private business while it is still within the control of the shipper.

To revert to the phraseology of section 8, that notice must be given of a shipment of grain destined to any State, Territory, or country other than that in which it is received for inspection, or received from any other State, Territory, or country than that to which it is consigned, to the chief inspector within twenty-four hours after its arrival, etc., it would be interesting to know what would become of a shipment of grain for export to Liverpool from Milwaukee, via Montreal, so far as the federal inspection is concerned. Where is that grain to be inspected under this bill? Inspectors are not provided for in the bill at such important United States ports as Galveston, Norfolk, Newport News, or Portland, Oreg., all more or less important to export trade in grain. Assuredly the bill does not provide for inspectors at Montreal or other Canadian ports through which American exporters now ship grain at times and through which they will probably ship in much greater quantity if driven to do so by unwise legislation. The point is, that many other customs which do not require revision may be disturbed by the wholesale breaking up of the present inspection systems, just as the breaking of one wheel may stop the working of an entire mill, and the question naturally arises whether the good to be gained from an entire reversal of the old order will compensate for the disadvantages and inequalities of the new system?

Since it is unlawful for the United States to regulate the transaction of business that is wholly intrastate, and it is believed that fully 90 per cent of those engaged in the grain trade or production would be averse to federal inspection, it is only fair to suggest that those engaged in intrastate transactions in grain would continue to have their grain inspected by local officials and local inspection departments of the exchanges, and thus make two sets of officials to compete for the business which is now being done by one.

Section 10 would not be objected to if the rest of the bill became a law, as it is a part of the present rules of the exchange.

Section 11 defines the right of appeal from an inspector to his superior, the chief inspector, and from the latter to the Secretary of Agriculture. This section is open to very serious objection in its conclusion, for without mentioning the supposition that the Secretary of Agriculture is not necessarily a competent judge of grain, or sufficiently expert to decide when doctors disagree, it is usual in the case of appeals from inspection to require very quick action, especially with perishable grain, and such action is not ordinarily obtainable from a high federal official, burdened with as much as is superimposed upon the Secretary of Agriculture, and especially one upon whose time there is as much demand as there is upon that of the present official. Appeals from inspection are not matters of everyday occurrence in any one market, but there are some every day in some of the markets. Under present conditions in our own market one may appeal to the chief inspector for reinspection, and if still dissatisfied can appeal again to the grain committee, which consists of seven members identified with the grain trade and familiar with grades. This method permits of an examination of the grain in question and a settlement within a few hours, or within a day at the utmost; but who can foretell how long it will take to get from the inspector at Seattle, Tacoma, or San Francisco (all named in the bill) to the chief inspector and thence to Cæsar at Washington? "Said Secretary shall make all needful regulations to govern appeals." If the foregoing provisions of this section have to be swallowed, there is no reason to strain at the latter.

There is another condition which might arise under federal inspection, which, while not touched upon directly in the bill, should be mentioned: Suppose a case in point, that a shipment of 50,000 bushels of corn, No. 1 federal, for instance, should unfortunately arrive at Boston, for export, from Chicago, and be seriously out of condition, notwithstanding the certificate. Under the present conditions, the exporter of such corn, or his representative in Boston, would hustle around for some good corn to take the place of the other and to fill the ocean freight engagement; but if the federal system were in vogue, could he or would he say, "This is or has been No. 1 federal corn, and I have the certificate for it; therefore I will ship it as such?" The foreign buyer (whose interest the framers of this bill champion so loudly) would scarcely be better pleased with poor or out-of-condition corn, accompanied by a federal certificate, than he has been with unsatisfactory shipments with board of trade or other exchange certificates, unless the federal certificate is to be considered as responsible to the buyer in Europe for any change in character of the grain covered by it. This point of indemnity is not covered in the bill, and it would be important to know what liability the Government would assume in issuing certificates of inspection that will displace other certificates, which at present in some cases have back of them an appeal fund created for the purpose of protecting holders from loss resulting from improper inspection. Radical legislation, such as is contemplated by the present bill, ought at least to be explicit.

Section 12 provides against mixing, without reinspection, grain that has been inspected and need not be objected to.

Section 13 would seem to have been redrawn so as to meet some objections previously urged, and in its present form prohibits shipments "from any of the places mentioned herein and at such other important centers of interstate trade and commerce in grain * * * to another State or foreign country without the same being inspected and graded as herein provided;" and provides that where grain has been once inspected hereunder, and remains unmixed with other grain and grades of grain the same need not be reinspected at the place from which it is exported; and it also provides that "said Secretary may, in his discretion, reinspect any cargo of grain before the same is exported." This seems to be the first departure from the provision set forth in section 8, requiring inspection at destination, and would certainly add to the vast army of inspectors that would be requisite if the bill became a law, besides giving to the Secretary, in his discretion, rights of reinspection which might work great injury to a shipper who had bought his grain, for export or shipment in interstate commerce, upon the point-of-shipment federal inspection just above enumerated in this same section. A case of the kind is cited in the remarks upon section 11, where an exporter might have a lot of corn at Boston, destined for Europe, and notwithstanding that he might hold a certificate of federal inspection obtained at Chicago, if the Secretary should, in his discretion, have it reinspected and de-graded at Boston, to whom could the exporter turn for redress?

Section 14 makes it the duty of the inspectors to investigate the weighing and handling of grain inspected by them, and would not be objected to if the rest became a law.

Section 15, providing for examination of samples and a charge for the inspection and sampling, is not objectionable, and would not be objected to if the rest became a law.

Section 16, providing for a penalty for breaking the law may be disposed of as in the two preceding paragraphs.

Section 17 appropriates $850,000 for the experiment, which might be objected to as much too small a sum. The whole scheme is rather too visionary to warrant any accurate estimate of the number of employees that would be necessary or the number of places at which inspectors would be needed, especially under the new section 13.

The principal objection that we feel to this legislation, with all due respect to its authors, is its uselessness. According to the evidence given by Mr. Gronna before this committee two years ago, his grievance was largely due to local conditions in his own section of the country, which we would suggest could be remedied without the disturbance of the whole country which the creation of a governmental department of federal inspection would necessitate. The vast sum of money which the Government would devote to experimentation might with great propriety be used to pay lecturers who could enlighten the northwestern victims of the present system upon the grades of wheat, so that they need not sell their No. 1 as No. 2 and their No. 2 as No. 3, etc. Or if the bill should be amended by striking out all excepting section 15 then the farmers of the Northwest might receive the benefit of the advice of the Government upon grades of their grain before letting the wicked elevator man take advantage of their ignorance of quality.

H. D. IRWIN,
JAS. L. KING,
F. E. MARSHALL,
Committee.

Mr. WANGER. Do you desire to proceed now, Mr. Gronna?

STATEMENT OF HON. ASLE J. GRONNA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH DAKOTA.

Mr. GRONNA. Yes, Mr. Chairman; I would like to make a brief statement.

Mr. WANGER. Proceed.

Mr. GRONNA. I introduced in the House two years ago a bill for the federal inspection and grading of grain. I again introduced practically the same bill, on December 6, 1909, with some slight changes, the changes being that any producer of grain could send samples of his grain to the nearest board of inspectors. That would, in my judgment, be a great convenience for the farmers of the western country who live great distances away from the grain markets.

Mr. TOWNSEND. Who would take advantage of that, Mr. Gronna? Anybody but the largest grain growers?

Mr. GRONNA. I think, Mr. Chairman, that nearly all the farmers would take advantage of it, because our farmers, you might say, are nearly all large farmers. Most of them farm from a half section to a section of land, and they ship a great deal of their own grain.

I appeared before this committee two years ago and made a statement which was taken down and was printed, and I really have nothing new to add to that statement except this: I have a report made by the board of grain commissioners of my State. This board is, under the law, appointed by the governor of the State, and the report goes into the question of the grading of grain. It shows the method used by the terminal elevators in the inspection of grain. It also shows the amount of wheat received of a certain grade, and gives the number of bushels shipped out of the same elevator, and it also gives the number of bushels shipped out of another grade. It also gives the operating expenses of maintenance of these terminal elevators.

Mr. SIMS. Do you want it all included in the hearing, Mr. Gronna?

Mr. GRONNA. Yes; I would like to have it go in.

Mr. SIMS. It is subheaded?

Mr. GRONNA. Yes; I would like to submit it, and have it printed. It gives the report of Mr. Charles F. Staples, commissioner of the State of Minnesota, a man who is very well posted on the question of grain, and I would like the committee to incorporate this report in the hearings.

(Following is the report referred to:)

REPORT OF BOARD OF GRAIN COMMISSIONERS.

To his excellency JOHN BURKE,
Governor of North Dakota.

SIR: The undersigned, appointed by your excellency as a board of grain commissioners, under the provisions of chapter 129 of the general laws of 1907, hereby respectfully submit the following report and recommendations:

ORGANIZATION OF BOARD.

Pursuant to the provisions of the statute providing for the appointment and designating the duties of this board, we severally qualified by executing a bond in the penal sum of $5,000, running to the State of North Dakota, and conditioned upon the faithful discharge of our duties as members of said board of grain commissioners, said bonds being on file in the office of the secretary of state.

On November 14, 1907, we met in the city of Minneapolis and organized by the election of Mr. A. R. Thompson, chairman, and Mr. M. O. Hall as secretary of the board.

TERMINAL WEIGHING OF GRAIN.

The board immediately took up the matter of investigating the system of terminal grain inspection and weighing in vogue at Minneapolis, Duluth, and West Superior, beginning their duties in this respect by an investigation of the state weighing system in operation at the city of Minneapolis.

In pursuance of this the board repaired to the office of Mr. P. P. Quist, state weighmaster of grain, and informed him of their desire and purpose. Mr. Quist, in his capacity as the chief of the Minneapolis weighing department, rendered efficient and accommodating service to this board in pursuing their investigation.

We first inspected the office of the weighing department. On the long counters we found spread out for the use of the public carbon copies of the weighers' daily reports which showed in detail the work of the previous day, giving car numbers, initials, kinds of grain, and weights. These reports also showed notations of leaks or any other bad order condition of the cars which might have resulted, or did result, in a shortage. When leaky cars are discovered a special report is made by the weigher, and the leak designated on the reverse side of the written report which has a diagram of a freight car.

Our attention was called to the Minnesota statute which requires all shippers to place a card on the grain door of the car shipped giving the outweight, so that in case of a discrepancy as between local weights and terminal weights, an immediate investigation can be made to determine such discrepancy, for it is very obvious that such an investigation will be of more value if made at once instead of after days or weeks have elapsed.

If the name and address of the shipper appear on these shipping cards, and the weighers report shows such car to be in bad order, a letter is at once sent to the address given and a copy of the weighers report inclosed, which can be used in making a claim against the transportation company for the grain lost in transit. Mr. Quist assured us, in this connection, that a just claim accompanied by such an official report is hardly ever rejected by the transportation companies, but usually settled promptly. We wish to emphasize the importance of this to our shippers—of weighing the grain and inclosing a card in the car showing the outweights, as a basis for recovery in case of shortage.

Mindful of the report made by the North Dakota Bankers' Association, referred to in the preamble to the statute under which we were appointed, we were quite concerned as to the application of the so-called "suction system" and the manner in which it affected grain that was being elevated from the bottom to the top of the elevator; we have been informed that light grain and chaff were taken out of the grain by suction before it was weighed. Mr. Quist informed us that on all occasions before the State established weighing service at an elevator or mill a complete test was made by the state scale inspector, not only of the scales and spouts, but that this test also included the suction system and no suction was permitted to be placed in the scale hopper, or in any place where light grain or chaff could be drawn out before the grain was weighed.

A visit was made by our board to elevator "C" at Minneapolis, where a test was made of the suction draft in our presence. At this elevator we discovered that the suction draft, as we found it in operation at that time, took out only fine dust, chaff, and light straw substances. There was no evidence that any grain, or even foul seeds having any particular weight, were removed by this draft. It was explained to us that the modern suction system, as employed in the large terminal houses, was absolutely necessary to collect and carry away fine and light dust, which is a menace to the health of the employees and is also dangerous explosive, and that this suction system is required by insurance companies.

We next visited the electric steel elevator at Minneapolis, which, as the name thereof would indicate, is built entirely of steel, having round steel tanks for storage purposes. This elevator, being fireproof, is exempt from the Minnesota law which requires that all grain stored in public elevators must be insured in favor of the owner, thus saving a great deal of money, as the insurance rate on grain is quite high. At this elevator we made a very close inspection of the system of weighing in vogue, which is identical with the system generally in operation at Minneapolis, Superior, and Duluth. An assistant state weigher was stationed on the ground floor of the elevator; his duty is to keep a record of the seals of the cars about to be weighed. He makes a careful examination of the car in order to detect any bad order or leaky con-

ditions, and it is also his duty to see that the car is properly swept out after being unloaded. He then notifies the state weigher, who is stationed in the upper story, or cupola, of the elevator, that the car has been unloaded and the contents thereof elevated. The scales in this elevator, as in most all other of the terminal elevators, are located in the cupola, most of them having a weighing capacity of from 85,000 to 120,000 pounds. The scales are of the so-called "hopper-scale" variety. The scale beams are equipped with a register device, which prints the weight on the ticket. The scale hoppers are also provided with a Neale patent indicator, which is not only a check against a leaky scale hopper, but against accidents and even dishonesty. In weighing the grain, after it is elevated into the hopper, two men are employed—one is a state weigher, representing the State, and the other some employee representing the particular elevator company, or mill, where the grain is being handled. Each of these men keeps a separate record. They check up their weights at the scale before the grain is dropped from the hopper with a view that no error can be made, and especially when it is further checked by the so-called automatic "type-register" ticket. There is also a device which indicates when the scale hopper has been opened, and which makes it impossible to receive other grain into the hopper before the same has been completely emptied. When the day's work is ended, the state weigher makes out a full report, in duplicate, of his day's work, which is sent to the state weighmaster's office, together with the automatic register ticket, where they are again checked by clerks with report sheets to detect any error that may have been made in the report. This is done for the purpose of still further insuring the correctness of the official certificates to be issued by the weighing department. These certificates are issued in the first instance to the consignee of the grain in question, or upon application in duplicate form to any person or persons who have any interest in the grain so weighed.

Our board next made a visit to the Pillsbury "A" mill. Here we examined into the condition of the cars that were standing in the mill yard preparatory to being unloaded. Several of these cars showed indications of having leaked while in transit, and were in a condition unfit for carrying grain. Investigation proved that State employees had made this inspection and had made a complete record of conditions. The system of weighing in vogue at this mill was also inspected, and was found to be about the same as that at the elevator just described. This mill has a daily capacity of 17,000 barrels of flour.

We next visited the Phoenix mill, where the weighing of the grain unloaded there was done on a track scale, also under supervision of the state weighing department. The system in vogue here we found to be this, that the gross weight of a car and contents were first ascertained and then the grain is unloaded and the empty car reweighed to ascertain the tare. In no case is the stencil weight marked on the car taken for the tare. No reliance is placed on the stencil weight on cars. Moreover, at these track scales all cars are detached from other cars while being weighed. We were informed in this connection that about one-third of the different stations where state weighing is in force at Minneapolis were equipped with such track scales. These track scales are equipped with the same safety devices and automatic registers that are used on the hopper scales.

Our attention was called to the fact that all state weighers are under $5,000 bonds, conditioned upon the faithful and honest discharge of his duties as such. Again, our attention was called to the fact that aside from the constant scale supervision by an experienced scale expert employed by the State, the shipments from elevators to mills, or from scale to scale, where state weighing was in force were carefully watched with a view of ascertaining whether these scales weighed the same. One of the purposes of this is to detect any scale getting out of order

This practically concluded our investigation into the public weighing system at Minneapolis. A few days later, however, we resumed such investigation as to the system at Duluth and Superior, and there we found that practically the same system was in operation, conducted in the same manner.

We found in pursuing this investigation that an unusually large number of cars are received at terminal points in bad order, cars that are received in such condition that it is quite obvious that more or less loss has been sustained while in transit—losses that in most cases perhaps should be borne by the transportation companies, inasmuch as it is only right and proper that a transportation company should in the first instance furnish a car in good condition and deliver its contents intact to the consignee. Responsibility for discrepancies occurring while in transit should be in most cases borne by the transportation companies. We also found that at Duluth and Minneapolis 85 per cent of all the grain was weighed on so-called "hopper scales." Furthermore, that it appears that there is a regular shrinkage of about 30 pounds per thousand bushels, caused by hauling, as it is a well-recognized fact that grain can not

be handled without a loss when elevated and weighed in hopper scales, it appears to this board that this is an injustice to the shipper, and we would recommend as an improvement to the present system of weighing, and in perfect fairness to the shipper that all grain be weighed on track scales before unloading instead of hopper scales.

We have not the Superior system governing the duties of weighmasters, etc., but we understand they are practically the same as the Minnesota system.

TERMINAL INSPECTION OF GRAIN.

Our board next took up the matter of terminal inspection of grain, and in this connection made careful and diligent inquiry into the system in vogue as to grade and to dockage. The Minnesota terminal inspection system was established by an act of the legislature in 1885, and has been in operation since that time under the provisions of the general law, as amended from time to time. The terminal-inspection law was the outgrowth of a demand on the part of the farmers of Minnesota for a system different from commercial inspection, which obtained prior to the enactment of the Minnesota grain and railroad laws of 1885. Prior to this time the inspection of grain at the Minnesota terminals was in the hands of men who were appointed by the chamber of commerce. It was claimed by shippers that such an arrangement was too one-sided, giving the purchaser of the grain practically the sole privilege of fixing its grade and its dockage. Under the present system the State becomes the arbiter between the shipper and the buyer. As originally established, this system was conducted almost entirely on the basis of outside or car-door inspection. When a carload of grain reached the terminal market it was placed by the railroad company upon special tracks called inspection tracks, which were provided for in each railroad yard. A state grain sampler appeared in the morning as soon as it was light enough to see, accompanied by an inspector. He first took a record of the car number and initials; also a record of the number of the car seal, which he had to break in order to enter the car. He then took a hollow brass tube, called a probe, and by plunging this tube down through the grain to the bottom of the car in five or more places he secured a fair sample of the grain throughout the entire car. These several probes were deposited at the door of the car, from which the inspector made his inspection and fixed the dockage. The sampler then resealed the car, keeping a record of the state inspection seal, applied in place of the broken railroad seal. While a state inspector was determining the grade of the grain in the car in question, a sampler employed by the chamber of commerce at Minneapolis or the board of trade at Duluth and Superior also took a sample, which sample was turned over to the consignee of the car for exhibition in the chamber or board of trade. The chamber of commerce and the board of trade also keep a complete seal record. Such was the system originally employed. In later years the Minnesota railroad and warehouse commission, who are charged with the supervision, by law, of the inspection and weighing departments, have made several innovations. The most important is doubtless the one that there is no more car-door or outside inspection. All grain is now inspected inside. The grain sampler, instead of depositing the several probes of grain taken by him at the car door, to be then and there inspected, now deposits them in a small sack, called a sample sack; in this sack, together with the grain, he places a ticket of the car on which has been marked the number of the car and initials. The sample is then taken or expressed to the state inspection officer, where, under light, it is inspected by expert inspectors; the grain dockage, if there be any dockage, is then determined by means of apparatus adapted to the work, consisting of finely adjusted scales and sieves of different kinds.

In the event that the shipper or the consignee is not satisfied with either grade or dockage, as the case may be, of the grain in the car in question, it is his privilege to call for a reinspection. The grain is then at once reinspected by the chief deputy inspector or his assistant, using for their reinspection purposes the same sample as originally based upon. In case either of the parties is still dissatisfied with the reinspection, it is his privilege to call for an appeal, which means that the merits of the case will then be considered by the state board of grain appeals, a board of nine members, three of whom officiate at Minneapolis, three at Duluth, and three at Superior. This is an entirely independent board, being appointed by the governor of the State, while the inspectors and weighers are appointed either by the railroad and warehouse commission themselves or, with their consent, by the chief inspector of grain. In Superior they are appointed by the state grain commissioners of Wisconsin. In case of controversy as to the grade or dockage, a sample of the grain being submitted to the board of appeals, an entirely new sample is procured from the same car. Thus while the original inspector and the chief deputy inspector reviewing his inspection use the same sample, the board of appeals procures an entirely new sample from the same car.

In pursuance of the system of indoor inspection, and with a view of expediting the disposition of cars upon arrival at the terminals, thus alleviating the annual car shortage, the Minnesota commission have established sampling stations in interior towns in that State. Thus there is a sampling station at Wilmar, at Melrose, at Cass Lake, at Sandstone, and at Staples.

Grain samplers in the employ of the inspection department are stationed at these places, which in all cases are division points. As the grain comes to these points, it is sidetracked, and the state samplers, together with the commercial samplers, obtain samples of the grain in the same manner as indicated above. These samples are then inclosed in a strong wooden box, securely locked, to which there are two keys—one in the possession of the sampling foreman at the interior point and the other in possession of the inspection office at Minneapolis, or Duluth, as the case may be. The samples, when so secured, are sent by express to the terminal point, which is the destination of the cars of grain of which they are samples. It thus quite frequently happens that the samples are received some time before the arrival of the car of grain that they actually represent. This affords plenty of time for original inspection and reinspection, if required. In this manner all the preliminary details are settled when the car arrives, and it can be immediately ordered to its final destination, thus assuring prompt unloading and disposition for further use. The grade and dockage given by the board of appeals is final.

Our board also found that the rules that govern the grading and docking of grain at the terminals in Minnesota are established at the beginning of each grain year by the members of the board of appeals. They are charged by law with meeting every year and establishing such grades as, in their judgment, the conditions may warrant. As soon as the grade and dockage of any carload of grain has been completed or finally determined a certificate of inspection is issued by the state inspection department. Thereafter the carload of grain may be sold or delivered at any mill or elevator for unloading. In this connection we desire to state that it is also made the duty of the grain samplers during their work in the railroad yards to make a careful examination of each car of grain with which they come in contact for the purpose of discovering any leaky conditions that may exist, and they are also charged with reporting to the office any indications on the surface of the grain in the car which would indicate that any grain might have been removed either by leakage or otherwise from such car.

In connection with this, the departments have also established an important branch of the state inspection and weighing system, that of watching or patrolling the terminal yards, whereby cars loaded with grain are continually watched while going through these yards, in order to detect leaky conditions that may exist, as well as to guard against pilfering. The terminal railroad yards are usually located in outlying districts where the vigilance of special watchmen is required. Very often leaky cars are found and reported by these special watchmen that would not show to be leaky except when in motion, for cars often leak in the yards when being switched about which do not show any evidence of leakage when standing still. A great deal has also been accomplished in this respect in protecting the property of shippers from pilferage, a loss against which the local shipper would be almost powerless if it occurred. These special watchmen cover the entire terminal system wherever cars of grain are handled, and they also see to it that cars are properly swept at the different unloading stations. These special watchmen, assigned to this patrol service, are empowered with police authority.

The commissioners were treated with all possible courtesy by the chiefs of the respective departments both in Wisconsin and Minnesota, and they apparently had nothing to conceal.

HANDLING OF GRAIN AT TERMINALS.

Grain, after being inspected and weighed, at terminals is disposed of by going to mills or terminal elevators. Some of the coarse grain is unloaded by teams from the car. Grain that goes to the several mills, in most all cases, can be considered as sold to these mills for manufacturing purposes, as it stands to reason that a mill would not buy grain that it did not intend to use for some purpose. As a matter of fact, over 95 per cent of all the grain that arrives at the terminals has passed from the original possession of the raiser of the grain into the possession of the several line, independent, or farmers' elevators that operate the local elevators on several railroads that lead to these terminals.

Less than 5 per cent of the grain received at these terminals belongs to original shippers or farmers. Investigation at local markets shows that most all farmers raising grain dispose of the same at the local markets, and their interest in terminal inspection, weighing, and prices is measured with the indirect effect of such conditions. As these conditions are good or bad, they reflect themselves back on the

producers. The shipper of grain to the terminals has his option, if he desires to temporarily store his grain, to patronize either public or semipublic terminal elevators.

The public elevators are licensed as such, and their business is under the jurisdiction and supervision of the railroad and warehouse commission of that State. Daily reports are made from these houses to the state warehouse registrar. These houses are not permitted to mix grain of different grades together. While it is permissible to mix the grain of different owners, the grade being the same, it is not allowed to mix that of superior and inferior grades. Thus, the identity of the grain stored is retained. It is inspected in by the state inspector and inspected out in the same manner. The weighing in and out is on the same plan, and under state supervision. These elevators offer an opportunity that independent shippers and others may afford themselves of, who may consider their grain to be of superior quality, and who desire to dispose of the same by special sale or otherwise.

By utilizing these public elevators, shippers can, if they so desire, preserve the identity of their grain by special binning the same, this feature of special warehousing being given them by law. In view of this, it is quite remarkable that so little use by shippers is made of the public terminal elevators, particularly by those raisers and shippers of grain who are fortunate in producing and owning the higher grades. It would seem that they, above all others, would take advantage of an opportunity to get the higher prices that the superior grade of their grain entitles them to. The latter suggestion appears particularly pertinent, as it would affect North Dakota farmers and shippers, who, this board feels, are the producers of the better grades of grain.

At the present time there is one of these public elevators at Minneapolis and one at Duluth. In addition to acquiring a license for the proper conduct of their business, they are also bonded to the State of Minnesota in a sum sufficient to guarantee the performance of their duties as public warehousemen in accordance with the provision of law.

In speaking of semipublic elevators, we refer to those houses where grain is inspected in and out by state inspectors and also weighed in and out by state weighers. There are a large number of these houses, most all of which are owned by private parties. We refer to them as semipublic elevators under state supervision of grades and weights. This does not mean, however, that the identity of the grades of the grain going into these houses must be preserved; that is optional with the owner of the grain. If he so desires, he can mix grain of different grades. These semipublic houses handle a great bulk of the grain that comes to the terminals. While they have public inspection and weighing, they are private in operation, inasmuch as the grain they handle belongs either to the elevator, or to private parties for whom they warehouse and handle the same.

This is a phase of the terminal grain business that has been quite generally misunderstood by our North Dakota shippers and farmers, who seem to think that all the elevators of Minneapolis and Duluth are public houses, where the identity of the grain must be preserved as received. We here desire to strongly emphasize the distinction that exists as between public and semipublic houses.

Another class of terminal houses that invited and engrossed the attention of our board are the so-called grain hospitals or mixing houses. Of these there are quite a number at the terminals. As their name suggests, they make a business of cleaning, scouring, and mixing grain for profit. The grain that is not in a warehouseable condition is conditioned, smutty grain is scoured, grain of inferior grade or of no grade is mixed with grain of better grades, to insure the market grade or quality. Wheat that is too light in weight for a certain grade is mixed with heavier wheat, so that it may acquire the proper weight. Smutty wheat, which in its dirty condition would be unfit for human food, is scoured or washed, and brought up to a No. 2, or sometimes even a No. 1 grade. Foreign seeds and foul stuff are removed from the grain. On the whole, the grain hospital system is a business practice whereby inferior and unmarketable grain is improved and made marketable. That this process requires the mixing with the poor grain of some of the better, or perhaps even the best, grain is admitted.

It suggests itself to our board that the modern grain hospital, under proper supervision, would serve a good public purpose, providing the profits they made were indirectly reflected back to the producer of the superior grade which they handled. These houses, together with the mills and semipublic houses, are also the beneficiaries of the sale of the immense amount of screenings or dirty grain. This brings us to that particular feature of our official duty which requires that we shall "make full inquiries into the dockage of grain and the expense of cleaning grain, and the disposition of screenings, and their approximate value." Screenings as here designated in the law, are dirt, foul stuff, and foreign seeds contained in the grain, as raised and brought

to market. It presents one of the lamentable features of local disputes as between the seller and the buyer.

In the early days, when the farmers cleaned their grain and when because of new and clean ground there was little or no foreign stuff in the grain, there was no dockage. Later it became necessary, and to-day dockage is recognized as a necessary and legitimate practice and has been officially sanctioned for years. Wheat, flaxseed, and rye are now officially docked at the terminal. The last few years have shown a very large increase in dockage, as would appear from the records. Thus, in 1904 the average dockage was 21.1 ounces per bushel; in 1905 it was 18.6 ounces per bushel; in 1906 it was 27.9 ounces per bushel; in 1907 it was 32.2 ounces per bushel; and in 1908, 39.2 ounces per bushel. This latter is the record for the crop year ending August 31, 1908.

All of this emphasizes the growing importance of this feature of the grain business. Not many years ago screenings or dockage were of little or no commercial value, being burned, as a rule, under boilers in engine rooms of mills or elevators. To-day they are used for various commercial purposes ranging in value from $7 to $15 per ton.

No absolutely reliable figures could be obtained that would give the amount and value of such screenings. However, this board did ascertain through reports received that the average amount of dockage taken at local elevators in the State of Minnesota was about eleven hundred bushels for the year ending June 30, 1907. There was at that time 1,723 local elevators in that State, and the amount of dockage obtained in that State in wheat and flax, according to this average would aggregate 1,897,000 bushels, or approximately 57,000 tons, which, at an average value of $11 per ton would be $62,700. This represents only the off-fall or dockage from wheat or flax. To this there would have to be added an estimate as to the probable amount and value of screenings obtained by the cleaning of other grain, such as rye, oats, and barley. These figures and estimates are from Minnesota.

In our own state of North Dakota, owing to practically no regulation, this board would feel warranted in doubling the figures. We have approximately the same number of local elevators in North Dakota as they have in Minnesota. This appears to us altogether the more remarkable when we consider the fact that the North Dakota lands are much newer, and ought to produce, and in our judgment do produce, cleaner grain than the long farmed land of Minnesota. In view of this we feel justified in estimating the commercial value of the screenings now practically given away by North Dakota grain raisers at not less than $150,000 per year. The North Dakota grain producer does not only give away this vast amount of screenings, but he is in addition taxed the regular amount of freight that accrues on shipments of grain in which the same is contained. It may appear impracticable but nevertheless the waste of this immense amount of stuff, which is suitable for food purposes for stock, would suggest the idea that it should be kept at home, and used by our farmers, instead of being given away and paying freight on the same besides.

For instance, the farmers' elevators, or independent elevators, or even the line elevators, might equip their houses with cleaning machinery, so that these screenings might be kept at home and probably ground into feed. Screenings, as now sold at the terminals are used principally for the feeding of sheep and for the manufacture of food. Thousands of tons of feed are annually shipped into this State, and it would seem to be an act of wisdom to retain our own screenings right at home and use them for such purposes, instead of shipping them to Minneapolis, Duluth, and Superior, paying the freight on same and then shipping the manufactured feed back into this State, which seems to be the logical, or rather the illogical, consequences of our present system.

TERMINAL GRADES AND CLASSIFICATION.

Terminal grades, under the Minnesota laws, are established annually by the state board of grain appeals. Formerly this was done by the railroad and warehouse commission, but since 1899 this duty devolves on the separate board appointed by the governor of the State, which is in no wise connected with or responsible to the railroad and warehouse commission.

This board in compliance with provisions in section 2062 of the revised laws of 1905, did, on September 2, 1908, establish the following grades of grain, which are known as Minnesota grades, the same to take effect from and after that date.

Quoting a prominent Twin City grain man: "Fixing price of wheat by committee of chamber of commerce and spread in price of grade is one of the greatest injustices in the grain trade." Our board also inquired into the differences in price, as between the several classes of wheat. There are three classifications of wheat which affect our State, namely, that called northern spring wheat, durum or macaroni wheat, and velvet chaff wheat. The latter wheat as yet has been raised in our State only in very limited quantities. The raising of durum wheat has, however, assumed large propor-

tions, the amount reported as being raised in 1907 being 18,822,630 bushels as against 50,658,389 bushels of northern spring wheat, as reported to the commissioner of agriculture by the several licensed local elevators doing business in our State.

These figures suggest the importance that the raising of durum wheat has assumed in our State, and our board felt justified and warranted in view of this to make careful and diligent inquiries into the terminal grading and prices, as well as into local grading and prices, as they affected the disposition of this wheat. When we began this investigation we found that this wheat was being graded under the separate classification at the terminals, namely, that of durum wheat. Otherwise the inspection, dockage, and weighing is done in the same manner as that for other wheat. We also found that there was a large difference in the price of this wheat as compared with the corresponding grades of northern spring wheat.

On October 14, 1907, when we first took up this matter, the official difference in price at Minneapolis between No. 1 northern spring wheat and No. 1 durum wheat was 17¾ cents. This, we believe, was about the average difference that they obtained at terminal markets during the grain season of 1907. At this time, November, 1908, the difference in price between No. 1 spring wheat and No. 1 durum at terminals is 16 cents. We also found that the difference at local markets in North Dakota as between northern spring wheat and corresponding grades of durum wheat was fully as large, and sometimes even larger than the average, which we quote for the terminals.

In view of this fact, and of the generally recognized fact of the superiority of the durum wheat, our producers are justified in inquiring and being informed as accurately as possible whether this large discrimination in these two classes of wheat is justified by their flour-making qualities and disposition as to sale, etc. Our board devoted some little time to making inquiries along this line, and in pursuing this course of this investigation we had two objects in view. First, to find out the relative value of these two wheats as to their flour-making qualities. In this respect we submit, together with this report, several scientific tests that have been made by competent analytical chemists, one of whom is Prof. E. F. Ladd, food commissioner of North Dakota, and the other test was made by the Howard chemical laboratory, of Minneapolis. (See Exhibits P and Q.)

The other object that we had in view was to discover, if possible, what becomes of the durum wheat when it reaches the terminal markets. In this respect we desire to say that it has been commonly reported that the large mills of Minneapolis were grinding a great deal of this durum wheat together with northern spring wheat. Our efforts to ascertain this fact from the proprietors of the mills themselves were only partially successful, although several of them did admit that they were grinding durum wheat.

From the chamber of commerce we obtained the following figures, taken from the Northwestern Miller, as to receipts and the manufacture into flour of the following classes of wheat for the crop year at Minneapolis ending August 31, 1907. These figures are as follows:

	Bushels.
Spring wheat	70,658,180
Durum wheat	9,900,550
Winter wheat	13,106,850
Mixed wheat	1,342,240
Western wheat	22,170

From the observations and inquiries that we made and the information that we were able to obtain we are of the opinion that there is an uncalled for and unjust price discrimination as between northern spring wheat and durum wheat. Inasmuch as this is a subject intimately connected with the matter of interstate commerce, we would suggest that the Federal Government should carefully inquire into the local and terminal purchase of durum wheat, and what becomes of the same after it leaves local markets. We deem it quite essential to the proper protection of the grain growers who are raising durum wheat that they should receive the full market value for such wheat as demonstrated by its actual flour or food value. We are constrained to believe that at this time they are not receiving such full value, but that large quantities of this wheat are being ground together with northern spring wheat and disposed of in domestic and foreign markets for the full price at value of northern spring wheat flour.

In support of the figures given above from the Northwestern Miller as to the consumption of durum wheat at Minneapolis, we quote the following from the report of the Secretary of Agriculture made to the President for the year 1907. Speaking of durum wheat, this report states: "Twenty million bushels of last year's crop were exported to Europe. Of the remainder all except the seed reserve went rapidly into domestic consumption, chiefly for bread flour. It is certain, from official figures,

that over 6,000,000 bushels were ground in Minneapolis mills. Probably 10,000,000 bushels were used in the country mills of the Northwest. In Minneapolis a large portion of this wheat was blended with hard spring, although considerable amount of straight semolina was made from macaroni factories. In the country mills a considerable quantity of pure durum wheat flour was made.

In a bulletin issued by Secretary Wilson March, 1908, after he had sent a special representative to investigate durum wheat in Minneapolis, he says "Fully 10,000,000 bushels of durum wheat are ground and mixed with domestic flour at Minneapolis."

It appears from this that the Federal Government has already made a beginning in investigating the disposition and use of durum wheat for domestic purposes, and this investigation ought to be continued until it can be ascertained where every bushel of this wheat grows, and for what purposes it is used or sold.

If this be true, and we believe it is true, then some way or means should be devised which would afford to the raisers of durum wheat that correct price to which they are entitled. During the present year the Minnesota board of grain appeals has established another classification of wheat, namely, that called "velvet chaff wheat." This is a comparatively new variety of wheat and, while the same has been grown in Minnesota and South Dakota for some years, it has as yet not been very much in our own State. However, it is quite probable that in the course of a few years, on account of its hardiness and superior yield, it will be extensively raised in North Dakota. Up to the present year this velvet chaff wheat was mixed by local buyers with their northern spring wheat and disposed of as such. Millers grinding the same claim to have discovered a perceptible inferiority as between this and the blue-stem variety, and mainly at their request a new classification was established.

The difference in the price of the corresponding grades of northern spring wheat and velvet chaff at this time is 6 cents per bushel. We are not prepared to state as to whether or not this is an unjust discrimination, as we have stated in regard to the difference in prices between durum and northern spring wheat. However, we believe also that in this instance careful investigation by the Federal Government ought to establish the correctness or incorrectness of the difference in price.

While perhaps not strictly germane to the duties and functions of this board, we assume the liberty of briefly stating the modus operandi in vogue at the terminals as to the purchase and sale of grain. This business is conducted almost entirely through the agency of the Minneapolis Chamber of Commerce and the Duluth and Superior boards of trade. These are organizations of men engaged in the grain business for the purpose of facilitating such business, organized on the theory that a large volume of grain that finds its way to these terminals necessitates some central place where the same, or samples thereof, can be presented for sale, and where seller and buyer can meet advantageously to make the trades and purchases which their business necessitates. This board is willing to go on record as not favorable to so-called chambers of commerce and boards of trade, but until some better system is adopted they must be tolerated.

These organizations employ grain samplers, whose duty it is to accompany the state grain samplers and to procure proper samples of the grain in cars which are about to be inspected. These samples are presented on tables during the open sessions of the chamber of commerce or board, with an official tag affixed showing what the state inspection was as to such car. This affords a reliable way of presenting and selling the several cars of grain as they are received from day to day—the sales so made by members of these organizations, whose charge is 1 cent per bushel for all kinds of grain except oats, for which a charge is made of one-half cent per bushel. No discrimination is made in the sale of grain, the shipments of individuals receiving the same attention from the commission men, who are members of these organizations, as those of larger concerns.

A complete record is kept of all sales as to time, place, and price, and from this record can be ascertained at any future time the exact price for which any carload of grain may have been sold in the past. These organizations also exercise care as to the financial standing of the several members connected therewith who do a commission business and who solicit consignments of grain from shippers.

WHAT ATTORNEY-GENERAL YOUNG, OF MINNESOTA, IS DOING.

In reference to the marketing of the grain raised in North Dakota it would be proper to state that an action has been commenced in the courts of Minnesota by the attorney-general, the decision of which will greatly affect the rights of the people of this State.

When the Farmers' Exchange was organized a few years ago one of its objects was to secure the marketing of the grain of Minnesota and the Dakotas in such a way as to secure the best results to the producers. For that purpose it was proposed, if possible,

to have a representative of the organization on the floor of the Chamber of Commerce at Minneapolis and the Board of Trade at Duluth to handle the grain of those belonging to the organization. There was also a provision in the constitution that the net profits arising from the business at the end of the year should be distributed among the members pro rata. This organization started business by opening an office at Minneapolis and another at Duluth. They were unable to obtain a membership at either place on the grain exchange, mainly because of the provision in the charter of the company that the net profits of the business was to be divided among the producers who composed this. There is a rigid rule in force at the Chamber of Commerce at Minneapolis and also in the Board of Trade at Duluth prohibiting any member from doing business with an outsider for less than a fixed commission for services and also prohibiting any member from making advances to shippers for less than a fixed rate of interest, to be determined in each case by the board, with a provision that if any member should cut the rates of commission, or rates of interest, he should be subject to a fine of a thousand dollars and expulsion from the chamber or board as the case may be. By reason of this rule the Farmers' Exchange, though it received large shipments of grain from North Dakota and Minnesota, was unable to make any profit on the business because it was required to pay the same commission to the member of the chamber for handling it that any other shipper was obliged to pay, and this without regard to the volume of business that it furnished the commission house. It is, of course, unnecessary to say that no one but a member can sell grain on the floor either of the chamber of commerce or the board of trade, and that all the grain business of Minneapolis is confined to the chamber of commerce, and all of the grain business of Duluth is confined to the board of trade, except the sale of such coarse grain as is needed for home consumption.

The action that has been brought by the attorney-general of the State of Minnesota and is now pending in the supreme court of that State is one wherein it is claimed that the practice of the board of trade at Duluth, which requires all the members to charge the same rate of commission and the same rate of interest on advances, and prohibits them from competing with each other either as to commission or interest rates, is a violation of the antitrust law of the State. If this action is decided in favor of the State, as it is hoped it will be, it will go a long way toward restoring an open market at both Duluth and Minneapolis, and will permit the members of the grain exchange to compete with each other for business by charging only such commission for their service as is reasonably compensatory, and not such commission as the board of trade may insist upon. Competition between the members would naturally reduce the commission charge and the interest charge very much below what they are now, and will effectuate a great saving to the grain producers of the States of Minnesota and North Dakota.

The attorneys who have handled this litigation on behalf of the State are Attorney-General Young, Assistant Attorney-General Loyal A. Stone, and Assistant Attorney-General George W. Peterson.

LOCAL WAREHOUSING, GRADING, DOCKAGE, AND WEIGHING OF GRAIN.

While the act under which this board was created and appointed did not contain any direct provision for an investigation of local elevator and grain conditions in this State, we nevertheless felt it our duty that in order to present a report we be at least fairly complete as to any existing unsatisfactory commendations that it would be necessary for us to give some little attention to local conditions, being limited as we were by a small appropriation and by a time limit of fifty days during the year 1907, we found it impossible to devote as much time as we should have desired in making an investigation of local elevator conditions. Finding no provision in the law governing our appointment, giving us such authority, we presumed upon the good will and official authority of the railroad commissioners of this State, whom the law charges with the supervision of local elevators, and who in their capacity as commissioners have access to the books and records of such elevators. This authority on the part of the commissioners was secured through the good offices of your excellency.

In this manner we were given an opportunity to make careful investigation of the grain business as conducted by the several local elevators at different points in this State, and while we are not prepared to insist that the business transacted by the several local warehouses at these several stations would be an absolutely fair criterion of the local grain business of the State of North Dakota, still we believe that it is fairly so, and that the result of our investigation in this respect indicates very grave and serious local troubles that should receive careful legislative consideration.

In this respect we take the liberty to suggest that while the lawmakers of our State can not go beyond its borders in the matter of regulation, modification, or change

of systems of inspection, be they under federal or state control, they can and have full power to remedy any local troubles that are found to exist and which, in our judgment, seriously impair the prosperity of the grain growers of our State. Local elevators are modern means of receiving and handling grain. Our laws have designated them as public elevators. They are public in this sense, that their business is subject to public supervision and regulation. Our laws define fairly well what their functions and privileges are, as well as the privileges of those for whom they transact business.

There appears to be rather well-defined opinion prevailing that the business of an elevator man, as far as the handling and purchase of grain, is one and the same. This, however, is a mistake. Public elevators in North Dakota, as defined by our law, are licensed for the handling, storage, and shipment of grain, not for the purchase of the same. The buying and selling of grain is an entirely different matter and one which at all times should remain open to any person or persons who desire to engage in such business. The fact that the public elevator man is fortunate enough to receive at elevator site on or off a right of way does not in any manner entitle him to a monopoly of the purchase of grain. His business, as defined by law, is to receive, store, and deliver grain at the option of the owner thereof, for a stipulated compensation for such service.

All of our laws are predicated on this proposition. It is assumed that elevator sites be granted and elevators erected commensurate with the local amount of grain tributary to such stations and that the amount of grain received by the several houses will reasonably compensate them by exacting the legal charge which is provided for the handling, storage, and insurance of grain. When this is followed by such houses no just complaint can be made. However, we are constrained to believe that the local elevators of North Dakota are not moving within that reasonable limit which terminal grades, terminal dockage, terminal prices, and the freight rate between terminal and local points would suggest.

Our deduction in this respect is based upon this proposition, which we believe to be fair and reasonable to both the producer and the local elevator man: First, our grain practically all going to the Minnesota and Superior terminals, it is necessary that it be received, graded, and docked locally on a basis of such inspection and dockage. As long as this system prevails, we are bound to conform to that as a reasonable commercial necessity. In the States of Minnesota and Wisconsin this is obligatory on the local elevator man. There they must conform to the terminal grades, and it clearly ought to be made the obligation of every local elevator man in the State of North Dakota to do likewise as long as these systems prevail. Moreover, local prices should be fixed and governed by terminal prices, minus freight charges, regular elevator charges, charges for terminal inspection, switching, and weighing, and such reasonable charges for a commission to sell the grain upon arrival at the terminals. These facts, all of which can be easily ascertained at all times through the method of price quotations in the public press and through information at the several freight offices, ought to make the margin of difference in price that should exist between terminal and local markets. That such is not the case at this time, or that such was not the case a year ago, we ascertained quite fully in the limited investigation that we made as to local inspection, dockage, weighing, and price conditions.

There are also indications of overages in local warehouses, but we are not prepared to state whether the same occurred by reason of overdockage or incorrect weights. In either event this is a loss to the producer. In the matter of local prices paid, we discovered what is perhaps the greatest factor through which the local producer sustains loss, namely, underpayment as compared with the terminal prices.

It would be difficult from the limited investigation that we made to fix any very definite amount as to what this loss may amount to on an average, but it would appear to range anywhere from 1 to 10 cents per bushel, according to the presence or absence of local competition, as the case might be. We repeat that it is our opinion that some remedy can and should be here applied by enforcement of existing laws or by the enactment of new laws that have this end in view. While it is manifestly impossible to enact laws giving anyone authority to fix terminal or local prices, it would appear, however, to be of necessity that effective means should be provided for by legislative enactment that would make it possible for the producer to escape unprofitable market conditions, at local markets to which they are contributors.

Correct local dockage and weights, we believe, can be established and enforced by competent and thorough local supervision, and it is not impossible to compel terminal delivery of grain handled through local houses by individual shippers for the purpose of securing correct terminal prices. If this avenue of escape is legally established and opened to the North Dakota grain producer, it will enable him to evade the necessity

of selling his grain at local points to local buyers, unless the price they offer him is satisfactory.

It appears to this board that such a law would be only fair and right and would have a tendency to effectively remedy existing local troubles. The very fact that the producer could circumvent and get away from conditions that did not suit him, or which in his judgment were unreasonable and unfair, would of necessity bring about better conditions. We inclose detailed exhibits of our local investigation.

Before departing from the matter of local investigation, we feel that we are justified in appending a few suggestions relative to the local grain business in our State. From figures received from the commissioner of agriculture we find that the farmers of North Dakota produced a total of 110,000,000 bushels of grain during the crop season of 1907. The loss or gain of a cent per bushel on this grain means $101,000 as the case might be. This amount is easily lost or gained by favorable or unfavorable conditions, nor is there any guaranty that such loss would stop at this figure.

All of this suggests that every provision that human ingenuity can invent should be employed to insure such reasonable protection to the North Dakota grain growers as they are reasonably entitled to. Grain raising and the profits resulting therefrom are the present and future basis of prosperity in this State. We are essentially an agricultural or grain growing people, and anything that in any manner detracts from the profit that rightly belongs to and should go to the man who raises the grain is detracting from the prosperity and reward to which the farmer is entitled. Recognizing this fact, we again emphasize the urgent necessity of better and more stringent local regulation and supervision.

It is not enough that local warehouses should be bonded and licensed for the proper performance of their business as public elevators. It is also necessary that some one with full and proper authority should, from time to time, inquire as to how well they comply with the laws already enacted for their government in regulation, and those which hereafter may be enacted. In other words, the laws governing this business should be enforced, and that can only be done by keeping in official contact with the several places of business, in order to ascertain whether or not they are doing right.

As to the method for such local supervision, that is a matter that should occasion careful legislative consideration and inquiry. Perhaps the division of our State in districts might afford a reasonable plan, and then to carry out this work it will of course require a collection or appropriation of the necessary funds. All of these funds should be acquired by tax or a license from the ones engaged in the grain business, as it would be manifestly unfair to tax such as are not engaged in the grain business for the protection of those who are. At the utmost it would be a small tax and one that we feel certain would repay it many times over in a short time. Experience in other States has demonstrated the usefulness of careful local supervision, and there is no reason why the same benefits should not manifest themselves in this State. In this connection we suggest another idea, and that is compulsory annual reports from all local elevator men doing business in this State. These reports should show the amount of grain received, how graded, the dockage, and disposition of the same, also the terminal weight, grade, and dockage.

This would enable those who are in charge of the department of supervision to ascertain with reasonable accuracy as to how well local elevator men do conform to terminal conditions.

RECOMMENDATIONS—REQUIRED LEGISLATION.

After careful inquiry into the provisions of our state laws which now apply to the regulation of local grain business in this State, our board arrived at the following conclusions in a general way as to the required legislation; part of the suggestions herewith made are covered by existing law, and others will require the enactment of a new law:

First. The enactment of a general law covering all the subjects herewith alluded to, and then repealing existing laws that cover the same subject, would be the practical way to solve this proposition. In our judgment the proper supervision and regulation of local grain business for this State requires a law that first should embrace official jurisdiction and supervision. The railroad commission of this State should be given full power to regulate and supervise the local, as well as any terminal, grain business established under our laws. They should issue all licenses required by local or terminal elevator men, and they should be given full power to revoke or annul such licenses for cause, also to receive, pass upon and accept or reject the bonds executed by elevator men under the requirements of the law.

Second. The supervision and regulation of the local and terminal grain business of this State will cause more or less expense. This should be borne by those directly

engaged and interested in the grain business. The most practical way to raise the money so required will be from a graduated license fee to be paid by the local elevator men in accordance with the capacity of the elevator which they operate. The money so collected should be gathered into a special fund to be known as the "state grain fund," and out of this should be defrayed, wholly or in part, the expense of local and terminal grain supervision.

Third. By legal enactment there should be established and defined what shall constitute public local and terminal elevators. Terminal elevators should be established by purchase or lease at terminal cities on the main railroad lines immediately adjoining the Minnesota border, or at Minneapolis, Duluth, and Superior. Under public local elevators should be defined all elevators and warehouses in which grain is received, stored, shipped, or handled, which are situated on the right of way of any railroad company or adjacent thereto to be used in connection with its line of railway at any station or siding other than at such places within the State which may have been designated as terminal markets; also all elevators and warehouses where grain is received, stored, shipped, or handled, situated at any boat landing on any river within the State.

Fourth. The enactment of a law providing for a legal form of elevator or storage receipt for grain. This act to provide for a uniform form of receipt to be used by all public local elevators in the State. One of the features of said receipt to be the compulsory delivery of grain stored at the initiatory elevator or at a terminal elevator, at the option of the holder of the receipt. Also the enactment by law of a form of surrender receipt to be issued to the holder of storage receipt upon a surrender of the same to a local elevator man, together with a demand for terminal delivery of the grain covered by such receipt.

Fifth. The enactment of a law providing for the appointment and employment by the railroad commission of this State of a competent scale expert or experts, who shall have power to inspect and report as to the condition of scales used in public local or terminal elevators within the State, the commission to have power to condemn scales found to be unfit for use or out of order, and to prohibit the use of any such scales until properly repaired. We believe this to be far better than the method now employed which requires the sheriff of each county to perform this duty.

Sixth. The enactment of a law providing for annual reports of all the business transacted by local elevator men and of daily or weekly reports of business transacted by terminal elevator men, such reports to be made to the railroad commission, and by them kept on file for the inspection of all parties interested. Also a provision made in such law for weekly reports of all receipts and shipments made by local warehousemen during the period from August 1 in each year to November 1 of the same year, these reports to show the amount of grain received during the preceding week of all kinds and its grade; also the amount of dockage applied; also the amount of grain of all grades shipped, and destination, giving date of shipment, number and initials of the car. The commission shall during this period employ some person whose duty it shall be to ascertain the terminal grades, dockage, and sale price of such shipments for the purpose of comparison of local grades, dockage, and sale prices. This law also to contain a provision for special reports at any time the commission, in their judgment, deem such special report necessary.

Seventh. The exaction of an adequate bond from all parties engaged in the local or terminal elevator business, such bond to be given for the faithful performance of their duties and obligations as public elevator men and to be graduated in amount in accordance with the volume of business to be transacted.

Eighth. A law providing for a system of publicity, under which the railroad commission shall acquire and keep on file or publish, as in their judgment may seem necessary, constant knowledge of grain prices as paid at the several local and terminal markets.

Ninth. The enactment of a law providing for personal, official supervision of the local and terminal business of this State, either by the members of the railroad commission themselves or by such agents and experts as they may employ for such purpose. The commission, or its agents, to have full power to enter upon the premises of any local or terminal elevator and to cause such elevator and the business thereof, and the mode of conducting the same, to be inspected whenever in their judgment such inspection seems proper; and for such purpose all such elevator property, its books, records, accounts, and papers shall at all times during business hours be subject to such inspection. The necessity for such local supervision and inspection suggests to our board the advisability of dividing the State into two or more districts and putting these districts under the supervision of individual members of the commission, or of agents whom they find it necessary to employ for such purpose in order to exercise more diligent and constant supervision.

TERMINAL ELEVATORS.

One of the perplexing propositions referred to this board by the act providing for our appointment and defining our duties is the matter of terminal elevators. The State of North Dakota is unfortunately so situated geographically that it does not contain within its borders such large commercial points that by virtue of their geographical location, or because of transportation centralization, might be designated as terminal markets. The real terminal markets for the grain raised in North Dakota are outside of our State, and terminal regulations at these points are impossible because of their location outside the jurisdiction of our laws. Whatever regulation might be attained at these points would necessarily have to be with the courtesy and consent of those in charge of the government and regulations at those points.

We have given this matter a great deal of thought and consideration and have decided to recommend the leasing of terminal elevators at Minneapolis and one at the head of the lakes. In connection with this recommendation, we consider it our duty to report an incident of Minnesota legislation of the same nature, which, while it may detract from the feasibility and practicability of our recommendation in this respect, we nevertheless feel ought to be brought to your attention and to the attention of the legislature which would have to take proper action in this matter.

In 1893 the legislature of Minnesota enacted a law providing for the purchase of a site and the construction thereon and operation thereof, through its railroad and warehouse commission, of a terminal elevator at Duluth, the same to be of a capacity of 1,000,000 bushels. This site was duly purchased by the commission, and they were about to let the contract for the construction of an elevator when they were stopped by injunction proceedings commenced by a citizen of that State in an action entitled "Rippe *v.* Becker" in the district court of Ramsey County, Minn. The district court held in favor of the State, but on appeal was reversed by the Minnesota supreme court. (Rippe *v.* Becker, 56 Minn., 100.)

The Minnesota supreme court held that the State, through the act in question, was preparing to engage in the grain business, and that this was in conflict with the constitution. The court affirmed the right of the State to "regulate" such business, but not to engage in it. The site so purchased is still owned by the State of Minnesota, but no further attempt has been made by the legislature of this State, or by its railroad and warehouse commission, to engage in the grain business.

We state this fact for the purpose of bringing it to the attention of competent legal authority as to whether or not our constitution allows our State to engage in the grain business. Should it be found that such is the case, and that the constitution of North Dakota, the same as that of Minnesota, would prohibit our State from engaging in such business, then our board would recommend the designation of several cities in our State near the Minnesota border as terminal markets and that the elevators situated at such points be defined and declared to be public terminal elevators.

COST OF TERMINAL ELEVATOR.

Our committee inquired into the matter of cost of purchasing or building a terminal elevator as per instructions in the law providing for our appointment. The cost of purchasing or building would perhaps be very nearly the same, taking into consideration the depreciation of old terminal elevators which are for sale. As to the cost of a new building, it would at this time approximate the following figures:

Elevator to be built of iron or concrete, 1,000,000 bushels capacity, 30 cents per bushel	$300,000
Iron or concrete, 1,500,000 bushels capacity, 25 cents per bushel	375,000

To build elevators of the same capacity, the material being wood, would cost less, or approximately from 12½ to 15 cents per bushel, according to the capacity, about one-half of their cost in iron or concrete.

As to the cost of the site, that is a matter that varies according to the location. In this respect our committee ascertained that adequate and well-located sites can be purchased at from $1,000 to $10,000 per acre.

In 1893 the railroad commission of the State of Minnesota, under direction of a statute which had then been passed, purchased a terminal elevator site at Duluth. This site is still in possession of the State. It is advantageously located, and comprises 2 acres of ground. The purchase price of this site at that time was $17,000. It has never been used and we have an offer from the state auditor of Minnesota for the purchase of this site. However, before such sale could be consummated it will require legislative sanction, and a previous appraisal by some authority from that State.

OPERATING EXPENSES AND MAINTENANCE OF TERMINAL ELEVATORS.

We find that the expense of maintenance and the operation of a terminal elevator will be about $3,600 per month. To this, however, must be added the expense for fire insurance, liability insurance, boiler insurance, and taxes. The operating expenses per month would be divided somewhat as follows:

1 superintendent	$200
1 foreman	100
1 engineer	75
1 millwright	85
2 weighers	170
1 fireman	65
1 electrician	90
2 sweepers	100
8 workers	500
1 watchman	60
100 tons of coal	450
Office expense	250
Stationery	10

If such a house is to run day and night, the time expense will increase accordingly. In the event of operating a terminal house or houses under a lease the expense, of course, would be relatively the same, excepting the payment of taxes. In connection with the foregoing we here desire to report that there was offered to our commission a terminal elevator with a capacity of 950,000 bushels, constructed of wood, in good condition, situated adjacent to the transfer yards in the city of Minneapolis, together with 5 acres of ground, all in modern running condition, for $160,000.

While complying with provisions of the law as to ascertaining the cost of building or purchasing a terminal elevator, our board, after full and mature deliberation and in view of the uncertainty as to whether it would be as feasible and practicable for a State to engage in the grain business, and after consulting with various grain producers in our own State who are interested in this project, have decided to recommend the lease of terminal elevators—one at Minneapolis and one at the head of the Lakes—as an experiment in this respect. We regard this as the safer method, in view of the fact that it will be an experiment. Should this prove satisfactory, it will not be difficult in the future to procure a site, erect terminal houses, or acquire such site and elevator by purchase. The expense of leasing such houses will be about 4 per cent of the cost of the building.

In another place in this report we have described the business of the so-called grain "hospitals" or mixing houses. The improvement of grain by this process has become quite modern, and in our judgment permanent, and we would suggest that the benefits of thus improving grain ought to be within the reach of farmers and shippers from our State. With this end in view, we would suggest the acquirement or operation of grain hospitals—one to be at Minneapolis and the other at the head of the Lakes, to be operated in connection with our terminal elevators. This would afford an opportunity for our North Dakota farmers, or shippers, who are unfortunate to come into possession of or raise smutty grain, or whose grain has been damaged by inclement weather, or who have not the facilities for cleaning grain before delivering same at the local market, to ship their grain to these houses for the purpose of improvement, they to become the beneficiaries of the increased market value by reason of such improvement, and to be recompensed in a reasonable manner for the off-fall from such grain.

We inquired into the cost of cleaning and improving grain at these houses, and found that such cost ranges from one-half to 2½ cents per bushel, according to the condition of the grain handled. For original cleaning the usual charge is from one-half to 1 cent per bushel, but if it becomes necessary to scour or wash grain, the cost is materially increased, being from 2 to 2½ cents per bushel. However, in view of the largely increased market value of grain treated in this manner, it is quite obvious that still larger profits should accrue to those who would avail themselves of the opportunity of thus improving their grain.

FEDERAL GRAIN INSPECTION RECOMMENDED.

This board, after very carefully considering the matter, have no hesitancy in indorsing the federal inspection of grain, and believe if it became law, would be more satisfactory than any of the present systems. The following are a few of the reasons:

First. Federal inspection, if adopted, would establish a uniform standard of grades over the entire country, and there would not be the friction which now exists by

reason of the different systems now in vogue. Illinois, Kansas, Missouri, Wisconsin, and Minnesota all have different systems and standards of grading. Under federal inspection the trouble now arising from so many different systems would be obviated.

Second. As has been stated before, 95 per cent of the grain raised by the farmers of North Dakota is disposed of at local elevators, where no system of inspection and dockage prevailed, but on the contrary every local buyer adopts his own standard. Under federal inspection the producer would get the benefit by bringing the inspection within his reach.

Third. On investigation we found that the present system of delivering grain for export on contract grades, or certificates of inspection issued by the Minnesota inspection department, have proved very unsatisfactory to the foreign buyers, and also works a hardship on the North Dakota farmer for the reason that the grades inspected out for export are inferior to the grades inspected into terminal elevators, and the price paid for the inferior grades, fixes the price on the better grades raised by the North Dakota farmer. We believe that the federal inspection would correct this wrong.

Fourth. Federal inspection would tend to restore the confidence of the grain growers of North Dakota, which has been sadly lacking under the present system of dockage and inspecting grain at the terminal markets. For this and other reasons which might be given, we strongly indorse federal inspection and urge the people of North Dakota to use every effort to get a federal inspection law passed.

As further evidence, we wish to quote Senator McCumber, the author of the federal inspection bill now pending in Congress (see p. 260, Hearing before the Committee on Agriculture and Forestry, United States Senate):

"Now, that same carload is taken into the elevator. The purchaser has bought it at a grade less than it is worth. He does not send that same carload on and finally sell it at the same grade abroad. He mixes it with three carloads of No. 3 or No. 4 and he ships that abroad (or to the consumer) as No. 1. He did not even pay for it as No. 1 in the first instance, but he has mixed it and sent it abroad. When it gets over there they will give only, we will say, a No. 2 price for it; but the shipper has got in three times as many bushels of No. 3 and No. 4. He has paid for the other stuff that he put into the No. 1 only 50 cents or 60 cents a bushel. Then the consumer over there refuses to pay the No. 1 price. He pays us a No. 3 price. That makes all of our No. 1 grain—what is really No. 1 grain—sell for what would naturally be the No. 3 price when you compare it with the No. 1 of other countries.

I wish to insert here another table, taken from the records of the weighing department of the State of Minnesota, showing the amount of each grade, weighed in at, the amount weighed out of, the elevator at Duluth during the years 1902, 1903, and 1904. The table is as follows: (From annual reports Minnesota grain inspector for years named, Duluth weighing department.)

Wheat (bushels).

Grade.	Years ending August 31—					
	1902.		1903.		1904.	
	Received.	Shipped.	Received.	Shipped.	Received.	Shipped.
No. 1 Hard	599,606	648,607	1,628,681	1,746,712	90,543	109,528
No. 1 Northern	15,187,012	19,886,137	21,905,842	23,606,721	12,401,897	18,217,789
No. 2 Northern	19,693,454	15,178,999	11,625,037	7,638,201	10,295,172	6,723,732
No. 3 Northern	7,035,133	1,971,355	1,300,553	297,794	2,616,065	283,299
Rejected	892,241	94,626	1,890,093	77,624	2,350,302	314,139
No grade	2,561,595	468,922	966,170	112,840	2,586,843	254,943

I have not the record for the subsequent years, but this will answer the purpose. I call your attention especially that in 1903, 15,000,000 bushels of No. 1 Northern were received and about 20,000,000 bushels of No. 2 Northern were shipped out. At the same time 20,000,000 bushels of No. 2 Northern were shipped in and about 15,000,000 bushels shipped out. In other words, about 5,000,000 bushels of No. 2 Northern changed immediately to No. 1 as soon as it was entered into the elevator. (See Exhibit O.)

Condition of cars, Duluth terminal inspection and weighing.

	September, 1908.	October, 1908.
Grain-door leak	922	635
End-door leak	854	184
Side-door leak	373	21
End leak	.....	994
Roof leak	.....	9
Corner leak	149	3
Bottom leak	72	23
Doorpost leak	.....	26
Center pin leak	.....	3
Drawbar leak	.....	26
Side door open	.....	129
Grain door open	.....	12
End door open	.....	172
Side door off	.....	38
End door off	.....	5
Leak in side of car	.....	312
No seals on end	1,024	385
No hasp	.....	80
Patched	109	931
No seal on side	.....	633
Doors open	338	.....
Broken seals	57	.....
Total number of leaks	3,898	.....
Total number of leaky cars	2,044	4,818

WISCONSIN GRAIN AND WAREHOUSE COMMISSION, SUPERIOR, WIS.

Condition of cars received during October, 1908 (10,522 cars received).—The following figures show the condition of cars weighed by Wisconsin-North Dakota weighers during the month of October, 1908, 4,832 in leaky condition, as follows:

Grain door leaks	3,479
End leaks	1,760
Side leaks	807
Corner leaks	445
Draw bar leaks	240
Bottom leaks	72

Report made on all new work of this kind, whether done before or after grain was loaded, to be determined upon by shipper and railroad company.

Cars reported newly nailed, patched, or cleated	1,162
Cars with leaks stuffed with rags, waste, paper, or grass	44
Cars showing depression in grain line	13
Reported in bad order on end or sides	21
Reported as having been loads from wrecked cars	2
Evidence of having been repaired en route	4
Car with no side doors	53
No end doors	4
With side door nailed	10

Seal record.

Cars no end seals	1,038
No side seals	503
Broken seals	117
Cars end doors open	155
Cars side doors open	113

H. A. JUNEAU, *Chief Weighmaster.*

We also wish to state in this connection that there is now in operation at Superior, Wis., a system of inspecting docking and weighing of grain, under the supervision and laws of the State of Wisconsin, of which any shipper of grain can avail himself if he so desires.. The chief inspector is a North Dakota man, and our State is also represented by one of three of the state board of grain commissioners, as well as one member on the board of appeals. Anyone shipping grain to the head of the Lakes, not being satisfied with Minnesota inspection, can get the Wisconsin inspection by calling for it, or he can obtain both if he wishes by paying for the same.

This gives the shipper the option of choosing between the two systems, consequently he is not compelled to accept the standard adopted by one, but on the contrary can avail himself of one or both if he so desires. In calling attention to this matter this board intends to be perfectly nonpartisan, but deems it their duty to state these facts for the benefit of the North Dakota shipper.

We are attaching to this report a letter from the commissioner of Minnesota, Mr. C. F. Staples, relative to the commission merchants' law. (See Exhibit R.)

This finishes our report, your excellency, and in conclusion we wish to say that while the time allotted to the investigation was not in proportion to the magnitude of the undertaking, however, we sincerely hope that our labors have not been in vain. Realizing as you do that we were not allotted with any authority by law whereby we could demand certain important things in our investigation, you at once appreciate the difficulties under which we labored. Notwithstanding all this, we believe we have accomplished some practical results, and we trust that you, the legislature, and all the people of our State, will appreciate and profit by them.

A. R. THOMPSON, *Chairman*,
M. O. HALL, *Secretary*,
E. D. WASHBURN,
Board of Grain Commissioners for North Dakota.

EXHIBIT O.

LONDON CORN TRADE ASSOCIATION,
EXCHANGE CHAMBERS, 28 ST. MARY AXE,
London, E. C., February 15, 1908.

Mr. PRESIDENT: I am instructed by the European International Committee on American Grain Certificates to communicate to you the following facts:

There have been for some years past a general consensus of opinion among European buyers of grain that the operation of the present system of certificating grain for export is increasingly unsatisfactory, and that whatever may be its merits for the purposes of domestic trading, it no longer gives to European buyers the confidence and protection which is necessary in a trade where the only guarantee for reliable quality and condition in exchange for buyer's money is a paper certificate. Formerly buyers in buying from the United States of America were able, as they still are in their dealings in grain with other exporting countries, to recover from shippers any damage they sustained owing to defects in quality or condition, but since the introduction of the certificate system this is no longer possible. Even after its introduction, indeed, until comparatively recent times, it was seldom found that any serious abuses arose, and trusting to their belief in the reliability of the grading system, buyers were willing to continue trading with America on less favorable terms than they demanded elsewhere; but whether from the increase of individual competition, or, what is probably more important, the rivalry between the older ports and their smaller and more recently established competitors, there seems little doubt but that the standard of grading has been lowered, either temporarily or in some cases permanently, in order to attract business from interior points; and we in Europe feel that the burden of such departure from the more reliable and stricter method in force formerly has been borne chiefly by European importers, who, being far away, have no power of protecting themselves against errors, or worse, in the grading methods of recent years. The result is that American grain suffers as regards price when in competition with grain from other countries. The increasing dissatisfaction culminated some twelve months ago in a general request from the principal European grain centers that a conference should be summoned by the London Corn Trade Association to consider the best measures to adopt to remedy the defects of the present system of dealing in grain from the United States of America.

The conference was held in London on the 8th of November, 1907, and was attended by delegates from all European importing countries. It was unanimously resolved that a committee be appointed, consisting of seven members from the United Kingdom and an equal number from other European countries (the latter being represented as follows):

Belgium 1, France 1, Germany 3, Holland 1, and Scandinavia 1, to suggest necessary improvements, and to negotiate with American grain trade for their adoption.

This committee met and drew up a scheme (a copy of which I have the honor to append) which was submitted to the principal grain associations of the United States of America, but which, I regret to say, did not only prove unacceptable to the American exchange but even failed to draw any counter proposals from them. Indeed, the way

in which this subject has been treated by some of the leading grain associations there would almost seem to indicate that there is no desire to recognize the undoubted fact that serious faults have arisen or that there is any need to amend a system which is responsible for abuses of which European importers universally complain.

Traders here generally recognize that a reliable system of inspection and certificating presents many advantages, but that to be thoroughly reliable, it must depend not only upon the expert knowledge, integrity and independence of the inspection officials, but that the rules for grading by which these officials are bound must be uniform, applying equally to every port, and should be generally known not only in the various American but also in the principal European grain centers, and that wherever possible from time to time type samples should be sent to our leading grain associations.

This is the system adopted by the agricultural department of His Majesty's Government in the Dominion of Canada, and has hitherto proved generally satisfactory.

My committee observed with great satisfaction your reference to this important matter in your last presidential message, and there is before your Senate and House of Representatives at the present time a bill embodying some of the above suggestions. While they would, of course, have preferred to get their own suggestions accepted by American traders, they wish to be permitted to offer to you their sincere congratulations and thanks for the steps you are taking to remedy an undoubted evil, and to assure you the warm support of the European grain trade in your efforts.

I have the honor to be,

Your most humble and obedient servant,

ROBERT A. PATTERSON,
Chairman European International Committee
On American Grain Certificates.

To PRESIDENT,
White House, Washington, U. S. A.

EXHIBIT P.

HOWARD'S WHEAT AND FLOUR TESTING LABORATORY,
Minneapolis, Minn., September 11, 1906.

Chemical analysis of wheat sample received from M. O. Hall.

Results given in percentages when practicable. Wheat sample milled to produce straight flour. Received 9-7-08. Schedule G.

"ARNAUTKA."

TESTS ON THE WHEAT.

Weight per bushel, cleaned	60.0
Cleaning loss	1.2
Yield	70.5

TESTS ON THE FLOUR.

Ash		.82
Acidity		.220
Soluble carbohydrates		2.7
Total nitrogenous compounds		16.7
Gliadin		9.8
Glutenin		4.6
Other nitrogenous compounds		2.3
Gluten		14.4
Color, poor		1.5
Volume of loaf	cu. in.	142
Weight of loaf	oz.	17.13
Water used	oz.	6.13

Explanatory remarks: The cleaning loss is the amount removed by our small milling separator and scourer and is expressed in per cent. The yield is the percentage of straight flour made on our experimental mill and calculated on the cleaned wheat. With a No. 2 northern wheat we get from 65 to 70 per cent of straight flour, and results are comparative with each other and approximately proportional to the yields which would be obtained in a merchant mill.

The ash is the percentage of mineral matter left after thorough burning, and is lowest in a true first patent and higher, as more of the branny particles are found being highest

in the lowest grades of flour. In flours made from spring wheats and best first patents range from 25 per cent or 30 per cent to 40 per cent, second patents and straights from 35 per cent to 55 per cent, cut straights, etc., from 50 per cent upward.

Acidity is the measure of the soundness of the flour. The acidity of this flour is considerable above that of flours made from ordinary spring wheat. The limit for such flours is 0.115 per cent. So that while this flour may be all right at present, it will not keep as well as if the acidity were lower. Soluble carbohydrates normal. Soluble carbohydrates (sugars, dextrins, etc.) are fermentible materials, and in sound flours do not usually exceed 6 per cent.

The nitrogenous compounds are the materials which influence the expansion or volume of loaf which the flour will give. They include the two gluten compounds—gliadin and glutenin—and other soluble nitrogenous compounds of little importance present usually in small amounts. This is a very high per cent of gluten, but it is of poor quality for bread-making purposes, as evidenced in the expansion of the baked loaf.

The baking tests are made according to our usual method, using 12 ounces of flour. Colors are marked as follows: Patents, maximum 1, medium 1.5, minimum 2. Straights, maximum 2.5, medium 3, minimum 3.5. The average volume hard spring wheat flours is at present about 195 cubic inches. The weight of loaf and water used are at present averaging about 17 and 6.06 ounces, respectively.

In general this wheat gives a flour yield equal to the ordinary springs, having the same weight per bushel; it has about the same water absorption and bread yield. The expansion of the loaf is decidedly below that of the ordinary springs, and also the keeping qualities of the flour. The ash is much higher and the color is the distinctive macaroni creamy-white color, and very good for this variety of wheat.

EXHIBIT Q.

The milling tests for the sample of wheat, Aronautka, laboratory No. 214, milled under date of September 5, were as follows, grade, No. 1 northern:

Weight per bushel, uncleaned, 59 pounds.
Weight per bushel, wheat cleaned, 61¼ pounds.
Number of pounds milled, 137 pounds 9 ounces.
Weight of patent flour, 70 pounds 6 ounces.
Weight of second clear flour, 3 pounds 11 ounces.
Weight of total flour, 91 pounds 1 ounce.
Per cent of total flour, 67.73.
Weight of bran, 11 pounds 9 ounces.
Weight of shorts, 31 pounds 13 ounces.
Total weight recovered, 134 pounds 7 ounces.
Percentage recovered in milling, 97.73.
Yield of bushel per barrel, 4 bushels, 56 pounds.

Baking tests for the three grades of flour in comparison with the regular laboratory standard were as follows:

Sample.	Weight of flour (grams).	Measure of loaf (inches).	Weight of loaf (grams).	Volume of loaf (cubic centimeters).	Color.	Texture.	Number loaves per barrel flour.	Number cubic inches per barrel flour.
Standard.....	359.0	26¼ x 22½	512.0	2,564	1.0	Good....	247.5	38,490
Patent (214).....	347.5	26⅛ x 21⅝	503.9	2,531	1.7	...do....	255.7	39,508
First clear.....	323.5	25⅛ x 20⅜	489.4	2,302	3.5	...do....	274.7	33,596
Second clear.....	312.0	24⅛ x 19½	468.9	2,171	7.0	Fair.....	284.8	37,738

In many ways it is hardly possible to compare results with those of Howard's laboratory, since he used the straight flour.

In expansion as indicated by the volume the patent for the durum fell a little below the standard, which is fife and blue stem, and one that has been used for several months in this laboratory.

It will be noticed, however, that a slightly less amount of flour was used in the patent than in the standard, so that the volume of this particular flour was very good, while the volume for the first and second clear, as will be expected, is much less.

The chemical work has not as yet been completed. Unfortunately one of my assistants was stricken down with typhoid fever and another, doing the flour work, was out of the laboratory for a week. This has put us quite a little behind in our work' but as soon as we can get the data completed I will send it to you.

Yours, very truly,

E. F. LADD.

Under date of November 10 this board again wrote Professor Ladd for the balance of his report and received the following answer:

NOVEMBER 11, 1908.

M. O. HALL,
Nicollet Hotel, Minneapolis, Minn.

DEAR SIR: In the absence of Professor Ladd I am instructed to acknowledge receipt of your favor of November 10, and to say that Professor Ladd is now in the East and does not expect to return until about the 20th.

Yours, very truly, ALMA JOHNSON, *Stenographer.*

[No. 4286.]

OFFICE OF RAILROAD AND WAREHOUSE COMMISSION.

Hon. M. O. HALL,
Secretary of the Grain Commission of North Dakota, Mohall, N. Dak.

DEAR SIR: In compliance with the desire of your commission for information with reference to the operation of laws governing the handling of grain and other agricultural products by commission merchants in this State, and particularly with reference to the circumstances and facts which led up to the prosecution by this commission of the firm of Edwards-Wood & Co., for alleged violation of the provisions of chapter 225, General Laws, 1899, commonly known as the "commission merchants' law," I will first direct your attention to the law itself as it now stands, in revised form, on the statute books.

COMMISSION MERCHANTS.

2114. *Definition—License—Bond.*—For the purpose of this subdivision a commission merchant is a person who may receive for sale, for account of the consignor, any agricultural products or farm produce. No person shall sell or receive or solicit consignments of such commodities for sale on commission without first obtaining a license from the railroad and warehouse commission to carry on the business of a commission merchant, and executing and filing with the secretary of state a bond to the State for the benefit of his consignors, the amount of the bond to be fixed and sureties to be approved by the commission, who may increase or reduce the amount of the bond from time to time. ('99, c. 225, ss. 1, 4, 6.) (77–483, 80–633, 778; 94–225, 102–697.)

2115. *Application for license—Conditions of bonds—Additional bonds.*—The application for license shall be in writing, state the commodities for which license to sell is wanted, and give the business address of the applicant and the estimated volume of business to be done monthly. If he desires a license which shall authorize him to sell grain, the bond shall be conditioned that he report to all persons consigning grain to him, and pay to them the proceeds of its sale, less commissions and actual disbursements; otherwise the bond shall be conditioned for the faithful performance of his duties as commission merchant. All licenses shall expire May 31 of each year. The fee for each license shall be one dollar. Such license may be revoked by the commission for cause upon notice and hearing. ('99, c. 225, ss. 1, 4.)

2116. *Commission may require confidential statements.*—For the purpose of fixing or changing the amount of a bond the commission shall require statements of his business from the licensee, and, if he fail to render such statements or to furnish any new bond required, the commission may revoke his license. All such statements shall be for the exclusive information of the commissioners, unless they shall be required for use in court, in which case the commissioners shall produce them. (99 c. 225, s. 4.)

2117. *Statement of the consignor.*—Whenever a licensee sells any grain he shall render a true statement in writing to the consignor within twenty-four hours of the amount sold, price received, name and address of the purchaser, and the day, hour, and minute of the sale, and shall forward vouchers for all charges and expenses. (99 c. 225, s. 2.) (94–225, 202–697.)

2118. *Complaint—Investigation—Report.*—Whenever a consignor of a commodity other than grain, after a demand therefor, shall have received no remittance or report of its sale, or shall be dissatisfied with the remittance, sale, or report, he may complain in writing, under oath, to the commission, who shall investigate the matter complained of. In making the investigation the commission may compel the licensee to produce

all information, books, records, and memoranda concerning the matter, and they shall give the complainant a written report of the investigation. This report shall be prima facie evidence of the matters therein contained. (1899, c. 225, s. 3.)

2119. *Action on bond.*—If any licensee shall fail to account for any consignment of any of the commodities mentioned in this subdivision, or to pay to the consignor moneys due on such consignment, the consignor or his agent, within ninety days of the date of shipment, may file with the commission an affidavit setting forth the matters complained of. Thereupon such consignor, within a year after the cause of action accrues, may bring an action upon the bond of the licensee, and recover the amount due him on account of such consignment. If such licensee has become liable to more than one consignor, and the amount of his bond be insufficient to pay the entire liability, the consignors shall be compensated in proportion to their several claims. (1899, c 225, s. 5; 1901, c. 227.)

2120. *Violations, penalty, etc.*—Any person engaged in selling any property as herein specified, who fails or neglects to comply with any of the provisions of this subdivision, shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than $25; and the commission, either upon such conviction or upon its own findings after investigation, if the facts warrant it, may cancel the license of any person guilty of any violation of law, or of conduct prejudicial to the interests of those making consignments to him to be sold on commission. Where a license has been canceled, the commission may refuse to issue any license to such person for a term of one year. Whenever requested to do so by any interested shipper, the commission shall have power to investigate any sale or transaction carried on by any person licensed hereunder, and for that purpose shall have the right to examine the books and accounts of any licensed commission merchant which in any manner relate to such sale or transaction. Any licensed commission merchant, or any agent in charge of such books or accounts, who shall fail or refuse to submit such books or accounts for the examination of the commission, shall be guilty of a misdemeanor. (1899 c. 225, s. 7.) (94-225, 202-697.)

Complying further with your request, I will state that an action was commenced by the commission against Edwards-Wood & Co. in December, 1903, which was based upon a complaint entered by Victor Carlson, a shipper residing at Hallock, Minn., this being but one of a large number of similar complaints received from various shippers in northern Minnesota and North Dakota, which had been filed with the commission, in each of which it was alleged that false returns had been made by said defendants, with the result that they had been defrauded of the true value of their consignments of grain and flaxseed shipped to said defendants who were engaged in the business of grain commission merchants at Duluth, Minn., being duly licensed as such under the law. On December 8, 1903, the defendants were arraigned in the Duluth municipal court to answer to the charge of said Victor Carlson, that they had failed to make a true report, within twenty-four hours, stating the true price of the sale of a certain car of flaxseed which had been consigned by said Carlson to said defendants at Duluth, to be sold on commission for his account. On January 5, 1904, the case came on for trial before a jury, resulting in a verdict of guilty. In this case Mr. Carlson consigned a carload of flax to Edwards-Wood & Co. for sale on commission; the car arrived in Duluth on January 19, 1903. On that day flax opened at $1.18½, went up to $1.19½. Edwards-Wood & Co. claim that they offered on the Duluth board at $1.19½, but failed to make a sale, and then purchased it themselves. On the next day they sold the flax to the Hall Elevator Company for $1.20, and reported to Mr. Carlson the sale of the day before at $1.19½. The court instructed the jury as follows:

"The offense charged against the defendants in this proceeding is that of failing to make a true report within twenty-four hours, stating the true price of the sale of the car of flax, which it is claimed was consigned by Carlson to defendants to be sold on commission.

"The offense charged is that of omitting to perform a positive duty enjoined upon commission merchants by the law of the State.

"When grain is consigned to a commission merchant to be sold on commission, it is the duty of the commission merchant to sell it in the open market for the best price obtainable, and to remit to the shipper the amount of the same, less his commission and the necessary disbursements. The commission merchant has no right in law, when grain has been consigned to him to be sold on commission, to purchase the grain himself; an attempt by him to make a purchase of such grain is not binding upon the shipper; and if any such attempt is made, and thereafter the grain is sold to an actual purchaser, the law requires the commission merchant to make a true report of the amount received at the sale to the actual purchaser within twenty-four hours thereafter."

The attorneys for the defendant entered a motion for a new trial, which was denied. An appeal from this order was taken to the state supreme court, which rendered its decision on February 17, 1905, in which no error was found in the instructions or rulings of the trial court, and its order was accordingly affirmed. This was followed by the imposition of a fine of $100 on each member of the defendant firm, or a total of $400 and costs, this being the maximum penalty for such offenses.

The importance of the result in this case can be best appreciated when it is considered that this firm was conducting an extensive business with a network of agencies, about two hundred and forty in all, scattered through the Northwest. After the final proceedings were closed the numerous branch offices of Edwards-Wood & Co. at the outside points were gradually closed, and in the course of a short time the firm retired from business. Other similar systems have extended their branch offices into this great agricultural district, but no further complaints of a like character have reached this office.

At the present time there are at Minneapolis, St. Paul, and Duluth, approximately, two hundred persons, firms or corporations engaged in the business of commission merchants, who handle grain and agricultural products on commission. On the other hand, there are many country shippers comprising farmers' elevator companies, also independent buyers and individual shippers, aggregating a vast number of persons and interests that must of necessity market their grain through the agency of these commission merchants, and who are almost wholly dependent upon their integrity in the handling and disposition of these shipments. It is pleasing, however, in this connection, and only just, to say that cases of default among the commission merchants at the terminal points comparatively speaking have been extremely few in number, there having been at all times manifested a general disposition on the part of the officers and members of the great commercial bodies in the cities to aid the commission in enforcing the laws and weeding out irregularities, thus maintaining their long-established reputation for integrity of purpose and fair dealing. The requirement that bonds shall be furnished by commission merchants to indemnify shippers against loss, also minimizes to a great extent the risk to which they might otherwise be subjected.

In the trial of this case, the question also of the relations between consignors and consignees and the obligations of commission merchants under the law was exhaustively discussed and developed, and the immediate effect was to stimulate a desire on their part to become better acquainted with the laws affecting their business. Another important result from this case was to firmly establish beyond question that the law is valid in all its parts, and that the careful observance of its provisions can not be evaded with impunity. It has placed the commission merchants' business on a more stable and satisfactory basis than before, by insuring a greater degree of protection to shippers, and establishing an increased feeling of confidence on all sides.

Very respectfully, yours,

CHARLES F. STAPLES,
Commissioner.

ST. PAUL, MINN., *November 23, 1908.*

Mr. STEVENS. What are the names of those commissioners, Mr. Gronna?

Mr. GRONNA. The names of the present commissioners?

Mr. STEVENS. No; I want the names of those who submit that report. I have the report here, and I wanted to know if it was the same report.

Mr. GRONNA. This report was made in the fall of 1908. It is a late report. M. O. Hall was chairman of the board.

Mr. STEVENS. M. O. Hall, M. R. Thompson, and E. D. Washburn.

Mr. GRONNA. We have two new commissioners now. That is, Mr. Brown and Mr. Thompson, I think his name is.

Mr. WANGER. You can hand it to the reporter and it will be printed as a part of the hearing.

Mr. GRONNA. Yes; I have done so. And I also have a newspaper clipping here which is taken from one of the Minneapolis papers, and I think the committee would have no objection to having that inserted in the record. It is simply a report.

Mr. STEVENS. A report of what?

Mr. GRONNA. A report that this board or committee has made; a brief statement of the report.

Mr. WANGER. It is a summary of the report you were referring to?

Mr. GRONNA. Yes.

(Following is the newspaper extract referred to:)

GRAIN COMMISSIONERS REPORT—GIVE RESULT OF INVESTIGATION AT GRAIN TERMINALS—MINNESOTA SYSTEM OF INSPECTION APPROVED.

The Minnesota system of state grain inspection has come off scot-free after a searching inquiry by the special board of grain commissioners appointed in 1907 by Governor John Burke, of North Dakota. The report of this commission has just been issued, and is highly pleasing to the Minnesota officials, who have all along declared the accusations made by Senator McCumber to be unjust. The commission's findings do not bear out the Senator's statements made in a speech on the federal grain inspection bill, though the commission also goes on record for a federal system of inspection.

The North Dakota investigation was made by A. R. Thompson, M. O. Hall, and E. D. Washburn, and it was a most searching inquiry, made under instructions which called for careful examination of such questions as the "suction draft" system in terminal elevators, dockage, the disposition of screenings and their value. The report is thorough on these subjects and finds no wrong done to the grain shipper which he is not able himself to prevent. The courtesy of the Minnesota officials is acknowledged, also their frankness in giving the visitors access to everything, and the North Dakotans say that their hosts "apparently had nothing to conceal."

DISTINCTION NOT UNDERSTOOD.

The report says that North Dakotans need to distinguish between the public elevators and the terminals and the semipublic houses, which handle the bulk of the grain and are not prohibited from mixing different consignments together.

"This," says the report, "is a phase of the terminal grain business that has been quite generally misunderstood by our North Dakota shippers and farmers, who seem to think that all the elevators of Minneapolis are public houses, where the identity of the grain must be preserved as received." Some comment is made on the mixing houses or "grain hospitals," which are not condemned. "On the whole," the report says, "the grain-hospital system is a business practice whereby inferior and unmarketable grain is improved and made marketable." It is suggested that these places would serve a good public purpose providing the profits they make are indirectly reflected back to the producer of the superior grades which they handle. They are also beneficiaries of the sale of the screenings. The report finds that dockage is increasing as grain becomes more foul with other seeds, but in 1908 was only an average of 32.6 ounces to the bushel. Screenings are now sold at from $7 to $15 a ton, and it is estimated that in this way North Dakota grain raisers practically give away $150,000 a year. In addition they pay freight on all this volume of dockage, for which they get no money.

SHOULD KEEP IT AT HOME.

"It may appear impracticable," the commissioners say, "but nevertheless the waste of this immense amount of stuff, which is suitable for food purposes for stock, would suggest the idea that it should be kept at home and used by the farmers instead of being given away and paying freight on the same besides."

The report explains the Minnesota inspection system in detail. It tells how samples are taken, and in each case saved for inside inspection, and for reinspection when called for. These are taken when possible while en route, samplers being stationed at Willmar, Melrose, Staples, Cass Lake, and Sandstone. In this way inspection is generally made before the car arrives at terminal, and appeal may be taken without holding delivery of the car very long. It is explained that in case of appeals a new sample is taken and inspected by a board of three men, appointed by the governor and not under the railroad and warehouse commission. Grain dockage is determined by finely adjusted scales and sieves.

The state weighing system comes in for a chapter, which is also free from criticism. Attention is called to the Minnesota statute, which requires a card giving the outweight to be placed on the door, so if there is a discrepancy it can be looked into immediately. This is recommended as a good practice for North Dakota.

SUCTION DRAFT NECESSARY.

The "suction system," so roundly condemned by the North Dakota Bankers' Association, was investigated and found to be a very proper and necessary process. The commissioners found that suction is not applied before weighing, so no light grain is lost, and the subject is then dismissed in the following manner:

"A visit was made by our board to Elevator C at Minneapolis, where a test was made of the suction draft in our presence. At this elevator we discovered that the suction draft, as we found it in operation at that time, took out only fine dust, chaff, and light-straw substances. There was no evidence that any grain, or even foul seeds having any particular weight, were removed by this draft. It was explained to us that the modern suction system, as employed in the large terminal houses, was absolutely necessary to collect and carry away fine and light dust, which is a menace to the health of the employees and is also a dangerous explosive, and that this suction system is required by insurance companies."

The process of weighing is described, showing that everything is done under supervision of bonded state weighers. Some loaded cars were found by the Pillsbury "A" mill that had leaked and were unfit to carry grain. "Investigation proved that state employees had made this inspection," says the board, "and had made a complete record of conditions." It is recommended that the railroads be required to stand losses by leakage from such cars. The board finds there is a regular shrinkage of 30 pounds to the thousand from hauling, and also that there is a loss in elevating to hopper scales. Hence it is suggested that all grain be weighed on track scales before unloading.

THE MARKET SYSTEM.

The report goes into the question of terminal markets, and while it does not favor board of trade methods, the system actually employed is described and not criticised in detail at all. On this the commissioners say:

"While perhaps not strictly germane to the duties and functions of this board, we assume the liberty of briefly stating the modus operandi in vogue at the terminals as to the purchase and sale of grain. This business is conducted almost entirely through the agency of the Minneapolis chamber of commerce and the Duluth and Superior boards of trade. These are organizations of men engaged in the grain business for the purpose of facilitating such business, organized on the theory that a large volume of grain that finds its way to these terminals necessitates some central place where the same, or samples thereof, can be presented for sale, and where seller and buyer can meet advantageously to make the trades and purchases which their business necessitates. This board is willing to go on record as not favorable to so-called chambers of commerce and boards of trade, but until some better system is adopted they must be tolerated.

"These organizations employ grain samplers and to procure proper samples of the grain in cars which are about to be inspected. These samples are presented on tables during the opening sessions of the chamber of commerce or board, with an official tag affixed showing what the state inspection was as to such car. This affords a reliable way of presenting and selling the several cars of grain as they are received from day to day. The sales so made by members of these organizations, whose charge is 1 cent a bushel for all kinds of grain except oats, for which a charge is made of 1½ cents a bushel. No discrimination is made in the sale of grain, the shipments of individuals receiving the same attention from the commission men who are members of these organizations as those of larger concerns.

"A complete record is kept of all sales as to time, place, and price, and from this record can be ascertained at any future time the exact price for which any carload of grain may have been sold in the past. These organizations also exercise care as to the financial standing of the several members connected therewith who do a commission business and who solicit consignments of grain from shippers."

STATE SHOULD LEASE TERMINALS.

The report recommends that North Dakota as a State shall lease terminal elevators at Minneapolis and one at the head of the lakes for the marketing of North Dakota grain. It advises building "grain hospitals" in connection with these. It urges a state law for inspection of local elevators, such as Minnesota has; also legal forms for storage receipts, scale inspectors, and reports from all grain warehouses.

Federal grain inspection is recommended, first because it would make a uniform standard of grades over the country; second, because 95 per cent of the grain raised in North Dakota, is sold outright at local elevators, where there is no system of inspec-

tion or dockage; third, because grades inspected out for export are inferior to grades inspected in, which works a hardship on the producer of the best grades; and, fourth, because "federal inspection would tend to restore the confidence of the grain powers of North Dakota, which has been sadly lacking under the present system of dockage and inspecting grain at terminal markets."

Mr. TOWNSEND. Briefly, now, of what do you complain?

Mr. GRONNA. We complain of this: That our grain, which generally is of a good quality, is shipped to the terminal elevators and mixed with inferior grain, reshipped to the foreign markets, and sold at a higher grade than it was bought at in the terminal elevator. That is the complaint. I have read in the consular reports, one or two of the consular reports, where the consuls said that the United States is being discriminated against, that the wheat of this country is being discriminated against because the grading of the wheat does not come up to the grade put on it in the certificate, and I believe if the Federal Government had charge of this business it would conduct it more honestly. They would have to see that every cargo of wheat, every carload of wheat that went into a cargo, would have to come up in weight and color, and the quality would have to be the quality that it is said to be in the certificate.

Mr. BARTLETT. One question. You get the price for the wheat you raise in North Dakota, whatever the standard may be, don't you? You get the price?

Mr. GRONNA. We do not. We do not get the price. That is what we are complaining of.

Mr. BARTLETT. How does the fact that they have bought first-class wheat from you and paid you the market price affect the price if, after they get it to Minneapolis or Chicago or somewhere else, they grade it differently and send it abroad?

Mr. GRONNA. We have shown, Mr. Bartlett, that thousands of bushels have gone into the terminal elevators at a low grade and been shipped out as a higher grade, and for that reason we do not get the price. We get paid for a lower grade.

Mr. BARTLETT. Does the farmer sell his wheat abroad, or do you sell it to the middleman?

Mr. GRONNA. We sell it to the middleman.

Mr. BARTLETT. You sell it before this mixing of grain is done?

Mr. GRONNA. Yes, sir.

Mr. ESCH. You have the Dakota inspection now, have you not, Mr. Gronna?

Mr. GRONNA. Yes; but the gentleman from Minnesota, I believe, can tell you about that. We have to sell our wheat according to the Minnesota inspection. All the grain that is not being used by the small mills in the State is shipped either to Duluth or Minneapolis.

Mr. ESCH. So that it is subject to Minnesota inspection?

Mr. GRONNA. Entirely so.

Mr. ESCH. And then your price is fixed by the Minnesota inspection, instead of your own inspection?

Mr. GRONNA. Yes.

Mr. BARTLETT. That is the same thing that the Supreme Court declared upon in the coffee case, that the coffee was graded according to New York inspection, regardless of what the tariff classification was. That case is in 102 U. S.

Mr. WANGER. Is there anything else, Mr. Gronna?

Mr. GRONNA. Not unless there is some question from some of these gentlemen who are opposed to the bill.

Mr. VINCENT. Is it not a fact that there is a representation of two members from the State of North Dakota in the Minnesota board of inspection now?

Mr. GRONNA. We tried to have two of our men from our State appointed on that board, but if I understand it correctly they are not legally members of that board. If I am mistaken in that I wish Mr. Stevens would correct me.

Mr. STEVENS. The gentleman from North Dakota is correct. North Dakota has a representative at Minneapolis, but he is not an official member of the board. Some of the Minnesota buyers have established a branch inspection at Valley City, N. Dak.

Mr. GRONNA. That is right.

Mr. VINCENT. You are opposed to the mixing houses, are you?

Mr. GRONNA. I am not opposed to them. We do not care what they do with this wheat if they allow us what our wheat is worth. I am opposed to having our good wheat bought at a low price and mixed with inferior grain and then shipped out again at the higher grade.

Mr. VINCENT. Two years ago you referred to the question of dockage. You have not referred to it to-day. Has there been any change in that?

Mr. GRONNA. I will say that the dockage has nothing to do with the quality of the wheat.

Mr. VINCENT. There are 10 pounds of dirt and seed in 60 pounds of wheat, and the wheat in the mixture is equal to No. 1 wheat. But the wheat and the seed together are not No. 1.

Mr. GRONNA. Oh, no; not at all. The gentleman knows that we are docked. I want to say on that question that the farmer is the one that loses most on that. He has to pay the freight on that foreign matter. All we ask to be paid for is the wheat. No one can improve upon that wheat. If it is grown No. 1 wheat you can not change it, and if it is grown No. 2 wheat you can not change it or improve it, so far as the wheat is concerned.

Mr. BARTLETT. You get the price of the wheat less the freight from North Dakota to Chicago—the market price, I mean?

Mr. GRONNA. Our price is based on the Minneapolis and Duluth market.

Mr. BARTLETT. You get that price less the freight?

Mr. GRONNA. Yes; and the farmer is the heavy loser if he ships wheat that contains a great deal of foreign matter. I want to say to the gentleman that I myself shipped wheat in the early days and shipped flax that has contained a good deal of dirt, speaking roughly. Now, what is called foreign matter does not consist of seeds or dirt; it may be grain. If it is oats in wheat you are docked for the oats. You do not get any pay for the oats, but it goes in as dockage. If there is flax in that wheat you are docked for that flax and vice versa. If there is wheat in the flax you are docked for the wheat.

Mr. BARTLETT. What is done when a carload of wheat or a bushel of wheat that has a certain amount of oats or flax in it comes to the elevator; what is done about it?

Mr. GRONNA. Of course if there is more of wheat than any other grain it will be called wheat. If there is a larger per cent of wheat

it will be bought for wheat. If there is a larger per cent of oats, it will be bought for oats.

Mr. BARTLETT. How do oats and flax get into a bushel of wheat?

Mr. GRONNA. From mixed seed grain. It does not take many kernels, you know, of oats mixed with wheat before it will make a large amount.

Mr. BARTLETT. And it gets in without any intention on the part of the farmer to adulterate the grain?

Mr. GRONNA. The farmers are taking every precaution to get clean seed.

Mr. BARTLETT. Ordinarily from your experience what would be the percentage of the oats or the flax in a bushel of wheat?

Mr. GRONNA. Well, we are not troubled with it as much to-day as we were in the early days, because now every farmer will have a good fanning mill and will clean his seed two or three times, and then they are careful in cleaning their feed. Understand, if you feed a horse oats and sow wheat, in the droppings there will be oats and that will grow. Now, as a rule, the farmer grinds the feed.

Mr. BARTLETT. There is no process by which the oats can be gotten from this wheat in cleaning or fanning before you sell it? Is there any process, any mechanical means, by which you get rid of the oats from the wheat?

Mr. GRONNA. Yes. As I say, we are not shipping so much of the grain mixed. The farmers have granaries, and they are cleaning their grain before they ship it; many of them do. But when grain is raised in enormous quantities you realize it is an enormous work. Some of the farmers take it to the elevator and pay the elevator for cleaning it.

Mr. BARTLETT. What becomes of the oats or the flax that comes out of the wheat?

Mr. GRONNA. If the farmer cleans it, he uses it for feed. If the elevator man does it, he turns it back to the farmer, and the farmer pays the elevator so much for cleaning. If it is shipped to the terminal elevators, they sell it or use it for feeding and the farmer gets nothing for it.

Mr. ESCH. Two years ago there was considerable testimony adduced before the committee to the effect that grain shipped from the United States to Great Britain and the Netherlands was of such character as to injure the reputation of the American trade. Do you know whether that state of facts is true to-day and whether it has had any effect on the exportation of American grain?

Mr. GRONNA. I do not know of my own knowledge. All I can say, Mr. Esch, is that I have had a copy of a consular report where the consul made the statement that there is no improvement; that the American wheat is being shipped in practically the same condition that it was before, and that they are going either to Argentina or the Danubes, and sometimes to Russia, to buy their wheat in preference to the United States.

Mr. WANGER. What was the date of that report?

Mr. GRONNA. It was printed some time last year.

Mr. WANGER. What consul was it?

Mr. GRONNA. If you will leave that blank, I will furnish you with that report and have it incorporated in my remarks.

Mr. BARTLETT. I understand it was the consul at Antwerp, in Belgium.

(Following is the report referred to:)

GRAIN-TRADE COMPLAINTS AS REPORTED BY AMERICAN CONSULS, AND CONSEQUENT LOSS TO AMERICAN PRODUCER.

Consul Thomas R. Wallace, in a report from Crefeld, says that the grain dealers in northern and western Europe have been holding meetings, the principal purpose of which seems to be to take united action with regard to a change in the rules and methods of transacting business with the United States in their line and to correct abuses now existing in the same. The consul continues:

"The grain trade from the United States with this district has been declining for some time, and if such dissatisfaction becomes general throughout Europe the losses to the people of America in this important branch of their export trade will be enormous. To gain some idea of the causes of the complaints regarding the grain exported from the United States I have made personal inquiry among the millers and dealers in these products, and am told that the conditions complained of here are the same all over Europe.

"The dealers say they have suffered excessive losses through the purchase of grain from America by its not grading up to the standard given in the inspector's certificate in kind, quality, or condition when received. Wheat sold as good winter wheat, and so certified to by the inspector, is very often found to be new wheat mixed with old and often wormy wheat. Grain often arrives in very bad condition. Wheat purchased as new is found weevily—very good wheat with badly damaged grain mixed with it.

"They say, further, that the American shippers well know these facts, but of late years refuse to take these precautions, and because of the rule that the inspector's certificate is final the purchaser is compelled to suffer the loss arising from this negligence of the shipper. If the purchaser presents a claim for loss caused by grain received in bad condition, or of inferior quality from that certified to by the inspector, he receives no satisfaction from the shipper.

"UNITED STATES ALONE TO BLAME.

"I am informed that such conditions have become worse; that the purchaser here does not receive what he buys, and that no reliance can be placed on the inspector's certificate. The result is the miller has ceased to buy American grain for his mill and the farmer for his stock. It is further said that grain received from South America, Russia, or Roumania arrives in good condition, that received from the United States alone being bad.

"A general meeting of those engaged in the grain trade was held in 1905 by representatives from Holland and Germany. A meeting was held in London in November last, in which appeared representatives from Germany, France, Holland, Belgium, Denmark, Italy, and England, Ireland, and Scotland, and still another meeting was held on December 12 at Berlin. At all of these assemblies the principal topic for discussion was methods to correct the alleged abuses in the grain trade with the United States.

"COERCIVE MEASURES THREATENED.

"The dealers having radical or extreme views do not believe that an amicable settlement of the matter can be made with the shippers unless coercive measures are used, and this is one of the reasons of the international character of these assemblies. It is said by them that some of the same conditions prevailed in the grain trade with Russia some time ago. The Russian dealers were invited to Berlin to a conference, but treated the action with indifference, whereupon the German dealers refused to buy any Russian grain, and in a short time Russia asked for a meeting.

"The seriousness of this movement, threatening the loss of trade in this important branch of American exports, should not be underestimated. It is general in its character and covers the countries buying about all of the surplus crops of the United States.

"The unanimity of sentiment expressed at these meetings indicates there must be good cause for complaint, and as representatives of nearly all the nations of Europe are taking part in these assemblies and the meetings have become international in character, it is time the American people, who are interested in this great and important branch of the nation's industries and commerce, should take some action to preserve it from further losses."

FRANCE.

FAULTY AMERICAN GRAIN-INSPECTION METHODS.

Consul-General Robert P. Skinner, of Marseille, thinks it is highly desirable that certain facts in regard to American grain-selling methods be given immediate and wide circulation, and that something be done, either by action of Congress or by the concerted action of American commercial bodies, to reform or, rather, standardize the system under which the great cereal exporting business has been created. Mr. Skinner writes:

"There is little popular knowledge in the United States in regard to the fact that wheat, corn, grease, and similar products of American origin are not now sold abroad by sample, but by nominal grade. The European buyer knows nothing of the merchandise whatever before it reaches his possession. He imports and resells various classes of merchandise, the quality or grade of which is certified to him, not by the merchant who has sold him the article, but by the official inspector of a board of trade or other equivalent body at the port of shipment. He pays for the goods before he receives them, and when the exporter in the United States delivers to him a certificate of inspection, declaring the goods to be of a given grade, he has no alternative but to honor the drafts. The bargain is absolutely final upon the production to him of this certificate of inspection.

"STRENOUS OBJECTIONS.

"Of late years the murmurs against this system have been increasing in Europe, and whereas a short time ago they took the form of isolated private complaints that goods did not always conform to the certified grade, they now take the form of organized protests. I have before me not merely private correspondence running through a number of years, but the recent proceedings of the London Corn Trade Association and the proceedings of a delegate conference held on December 12 at the Berlin bourse, the general tenor of which is that foreign importers are vexed with prevailing conditions in the United States and are determined to force an improvement. At these two conferences a great many harsh things were said in regard to American certificates, and specific instances of irregularities were mentioned. The vital point, which it will be well to separate from so much context, is this:

"'Mr. Friedberg (Hamburg) stated: It is perfectly clear that if an American inspector certifies we have no right to doubt, or if we do we are asked, "Why do you go on buying?" I may assure this meeting that a good many of us are not going on buying. We have none of this trouble in South America. For the general trade I think that there are respectable people enough in America, and I am wondering why they do not stop the glaring abuses that are complained of.'

"This instability is naturally one of the conditions of American business that is least acceptable to foreign importers, and, what with rivalry between ports for export business, it has created not only bitter feeling abroad, but definite differences in the prices at which grain of the same nominal grade is offered for sale at the different ports of shipment. There are 'easy ports' and 'good ports,' and sometimes the 'easy ports' are penalized as thus explained in a recent letter from an importer to an officer of an American commercial organization:

"'As you know, at present importers have great difficulty selling on certificates, but where quality is reasonably assured they are willing to pay a premium over lower inspections. Newport News and Norfolk were excluded on the London and Liverpool contracts because of last year's (1905) No. 2 corn shipments, while, as you know, your inspection maintained a premium all last season over the Atlantic.'

"SIMPLE REMEDY PROPOSED.

"The remedy sought is so easy of application and the demand for its application is so entirely reasonable that to the importer protracted resistance is incomprehensible. The proper remedy may be applied either by the American Government or by the cooperation of American trade bodies. The starting point of the reform would be, naturally, the establishment of standard descriptions by law. This done, if the Government were charged with the issuance of inspection certificates the service would be removed from local influences, and the so-called official American certificates would be rehabilitated. If this very rational proposition be objected to, the surest means of effectively combating it would be the holding of a conference of American grain-inspecting bodies for the adoption of grain standards and for the adoption of ways and means of drawing standard samples, to be deposited in American consulates at great European ports, or to be issued upon demand to importers; and to provide for

a board of inspectors, the members thereof to be transferred at intervals and liberated from every form of local pressure."

Consul-General Skinner, of Marseille, France, under date of January 10, 1907, writes as follows:

"In continuation of my report, dated December 18, 1906, I wish to say that my attention had been called to a report presented to the Syndical Chamber of Grain and Flour, at Paris, by George Lefebvre, delegate to the International Reunion, organized by the London Corn Trade Association. This report has been sent to me by a prominent Marseille miller, and I take it that it resumes the sentiments of the trade in this city, which has not acted upon the subject as yet in an official manner, although at this port the great bulk of American hard-wheat exportations are received. The report of M. Lefebvre is quite long, and I translate merely the salient passages as follows:

"'I have the honor to render an account of my mission as your representative at the conference of November 8, organized by the London Corn Trade Association, for the purpose of considering final certificates covering grain exportations from America. The conference was attended by not less than forty-five members, whose opinions were unanimous as to the necessity of reforming the actual system. Some wished to ameliorate it, and others to abolish it. Complaints were made of a detailed nature, which I have no need here to repeat, except as to two cases, which deserve to be set forth.

"'Complaint was made in regard to the delivery of hard winter wheat No. 2, in which not only the old and the new crop were mixed, but in which there was to be found also a considerable quantity of seriously damaged wheat. From the American inspectors who delivered the certificates the only answer received was this, "We consider our principal duty is to secure the consumption of our crop."

"'Corn certified as No. 2, or "sail grade" (the quality capable of supporting a voyage in sailing ships), and which should have been able to endure a long voyage, arrived in a completely bad condition after a rather short journey. The complaint made was met by the reply that, "It is the fault of the buyers, who purchase during the months when corn germinates."

"'Mr. Montgomery, of Liverpool, speaking first, declared that the inspection service was badly established in the United States; that the European buyer, renouncing any right of appeal as to quality when an inspector has delivered a certificate, thus constitutes the inspector an arbiter between the seller in America and the receiver n Europe.

"'The abuses concerning which complaints arise from all parts of Europe prove that the buyers must come to an understanding in order to determine the methods by which this business should be handled between America and the Old World. This conference is probably the first effort along these lines between the interested countries.

"'First of all, what is it that is called an "official" certificate of inspection as to quality? This is a very broad definition. There is not in the trade any definition of the word "official," and in consequence every certificate of an inspector who holds an official position must be accepted by the buyer.' "

CANADA.

The following Associated Press dispatch is corroborated by the Agricultural Department:

"GRASS SEED IS BEING DOPED WITH ADULTERATIONS FROM CANADA.

"WASHINGTON, February 13, 1907.—The Department of Agriculture has issued a circular relative to the investigation of the adulteration of orchard grass, bluegrass, clover, and alfalfa seed. The department gathered seed from all parts of the United States, buying in the open market, and of the seed examined about one-third was found adulterated. The degrees of adulteration varied from 10 per cent to 75 per cent. The names of upward of a hundred firms which the department alleges are selling adulterated seeds are printed in the circular. It is estimated that 700,000 pounds of Canadian bluegrass seed are annually imported into the United States and mixed with Kentucky bluegrass seed and sold as the latter. A similar amount of trefoil is imported from England, mixed with alfalfa seeds, and sold at a corresponding advance, says the circular."

SCOTLAND.

AMERICAN FLOUR HURT BY MISBRANDING.

Consul R. W. Austin, of Glasgow, writes that the friends of American flour in Scotland are elated over the passage by Congress of "the food and drugs act of June 30, 1906," and are predicting that with the enforcement of the law mentioned the Ameri-

can flour will regain its old-time reputation and be restored to the head of the list, which it occupied in Great Britain prior to 1904. Mr. Austin continues:

"At that time no flour—home or foreign—equaled the American article, which had grown in popular favor to such an extent that it had no real competitor.

"The American wheat crop of 1904 being short enabled the continental mills to introduce their flour into Scotland, many of them not hesitating to use popular American labels. This scheme was worked successfully for some time, to the injury of the American trade and the excellent reputation of its flour. Finally a vigorous protest under the British 'sale of goods act' was made, and this practice of the millers of the Continent discontinued. While this afforded relief, American flour is, and has been for several years, seriously injured in Great Britain by its being misbranded or labeled before leaving America, and this unfair method, it is hoped, will be discontinued by an observance of the 'food and drugs act.' "

Mr. STEVENS. In that connection I will ask leave of the committee to submit a copy of the official report of the North Dakota legislation and the Minnesota legislation in connection with Mr. Gronna's statement, in which report is embodied a statement concerning grain inspection.

Mr. WANGER. Very well. Let it be submitted and incorporated.

(Following is the report referred to:)

ANNUAL REPORTS OF THE CHIEF INSPECTOR OF GRAIN OF MINNESOTA; ALSO OF THE STATE WEIGHMASTERS, WAREHOUSE REGISTER, AND SUPERVISING INSPECTOR LOCAL WAREHOUSES, TO THE RAILROAD AND WAREHOUSE COMMISSION FOR THE CROP YEAR ENDING AUGUST 31, 1907.

GRAIN-INSPECTION DEPARTMENT.

STATE OF MINNESOTA,
OFFICE OF CHIEF INSPECTOR OF GRAIN,
St. Paul, Minn., November 1, 1907.

To the Railroad and Warehouse Commission, St. Paul, Minn.:

GENTLEMEN: I herewith transmit to your honorable board the Twenty-second Annual Report of the State Grain Inspection Department, embracing in detail its business and transactions for the crop year ending August 31, 1907, including reports for the same period of the weighing and registration departments at the several terminal points: also the second annual report of the hay inspection and weighing department for the year ending August 31, 1907.

In my last report I took occasion to give a brief history of Minnesota inspection at Superior, Wis., explaining the controversy that had arisen at the head of the lakes, and in this connection mentioned the new Wisconsin inspection law, which provided for a board of three commissioners—one from Wisconsin, one from New York, and one from North Dakota. It is not my desire or purpose to reopen the controversy that culminated in the enactment of the above-mentioned law and its subsequent failure of practical operation.

This controversy had, however, been exploited by persons interested, and others ignorant of the real facts, until it received the official action of the North Dakota legislature in the passage of a concurrent resolution, copies of which were duly transmitted to the president of our state senate and the speaker of the house of representatives.

This concurrent resolution embodied certain charges and requests affecting the grain interests of this State, and in particular the operation of the department of which I have the honor of being the chief.

Our legislature, mindful of its respect to the demands and representations of the legislature of a neighboring State, took due notice of this resolution by the appointment of a joint special committee on the part of the senate and house, with instructions to investigate and report to the senate and house its findings and conclusions. After a most thorough investigation of the whole subject-matter involved, this joint committee made its report; the same received the unanimous sanction of the senate and house and was duly transmitted to the legislature of North Dakota. I append the North Dakota resolution and the legislative reply thereto, and submit that the reply is not only a complete exoneration of our Minnesota inspection and weighing system from any real or implied wrong, but that it is in the highest degree commendatory thereof, a fact which I take pride in bringing to the official attention of the commission.

[Senate bill No. 82.—Introduced by Mr. Cashel.]

CONCURRENT RESOLUTION.

Be it resolved by the senate of the State of North Dakota, the house concurring:

Whereas the Wisconsin grain grading and inspection law at Superior, Wisconsin, is the legally established market for the grains of this State, the State being represented by a commissioner on the board that regulates the same, to whom it contributes a portion of his salary; and

Whereas the operations of the law are now tied up in the courts and inoperative, being bitterly opposed by the railroads, elevators, and boards of trade operating under the Minnesota grain grading and inspection law, thereby destroying competition to the great injury of the farmers of this State; and

Whereas the Minnesota law is not satisfactory in its dockage and in allowing terminal elevators to doctor wheat by scouring and mixing inferior grades, thereby advancing the grades and shipping out a greater amount of higher grades of wheat than were taken in, thus making unnatural gains for the elevators, and a corresponding loss to the grain growers, besides degrading the quality of our wheat in the markets of the world; and

Whereas there are frequently losses to shippers through defective cars, being so either when loaded or by rough handling when in transit or in the terminal yards, causing numerous losses not accounted for: Therefore be it

Resolved, That this legislative assembly, composed of the representatives of the farmers and business interests of the State, believing that there should be free, open, competitive markets for our products and that we should receive just value therefor, do respectfully request and urge:

First. That all opposition be withdrawn from the establishment of an equitable grain grading and inspection law at Superior, Wisconsin, giving to us a competitive market.

Second. That the legislative assembly of the State of Minnesota be requested to amend its grain grading and inspection laws, establishing grain hospitals for customers only, and prohibiting terminal elevators from shipping out more grain of a given grade than was received in.

Third. That the legislative assembly of the State of Wisconsin be also requested to amend its grain grading and inspection laws to harmonize with the requests set forth in the second article of this resolution, and to prohibit a few persons from controlling the storage capacity of an elevator to the detriment of the many.

Fourth. That the suction draft be prohibited before grain is weighed and dockage taken, and that the value of the dockage be accounted for and paid to the owner of the grain from which it was taken.

Fifth. That a car inspection be established in each of these States to ascertain the exact condition of cars arriving, loaded with grain, and that all defective cars be specifically noted and reported to the head of the grain inspection department where they entered, and a duplicate notice thereof sent to the company to which the car belonged; and be it further

Resolved, That should we fail through these recommendations and requests to procure a redress of these grievances, we respectfully urge the grain growers of this State to cooperate for the purpose of building local and terminal elevators; and be it further

Resolved, That we favor a national grain grading and inspection law that will be uniform in all the States, thus abolishing the special system in each State; and be it further

Resolved, That the secretary of state be requested to send a copy of these resolutions to each of our representatives in both branches of Congress, also one each to the secretary of state, the president of the senate and the speaker of the house of representatives of the States of Wisconsin and Minnesota, and to the presidents of the boards of trade of Superior, Wisconsin, and Duluth, Minnesota.

(Signed) R. S. LEWIS, *President of the Senate.*
TREADWELL TWICHELL, *Speaker of the House.*
JAMES W. FOLEY, *Secretary of the Senate.*
P. D. NORTON, *Chief Clerk of the House.*

I, James W. Foley, secretary of the senate, do hereby certify that the foregoing concurrent resolution originated in and was adopted by the senate of the tenth legislative assembly of the State of North Dakota and was concurred in by the house of representatives.

JAMES W. FOLEY, *Secretary of the Senate.*

[State of Minnesota. Thirty-fifth session. H. F. No. 603. Introduced by Committee on Grain and Warehouse, March 4, 1907.]

CONCURRENT RESOLUTION Relating to grain inspection.

Resolved by the house, the senate concurring, Whereas the senate and house of representatives of the tenth legislative assembly of the State of North Dakota adopted a certain concurrent resolution, copies of which were duly transmitted to the speaker of this house and the president of the senate of this legislature, and whereas such concurrent resolution contains certain charges and makes certain requests affecting the grain interests of this State and the state grain inspection and weighing departments, and whereas such charges and requests call for a reply from this legislature, so far as the same affect this State, its grain interests, and its grain inspection and weighing departments: Therefore be it

Resolved, That the following is the reply of this legislature to the several resolutions contained in the said concurrent resolution, transmitted by the North Dakota legislature:

Reply to resolution first: There is not now nor has there been at any time any opposition on the part of any legal authority of this State and particularly on the part of the Minnesota inspection department, to the establishment of what said resolution first terms an "equitable grain inspection law at Superior," nor has anything been done by any legal authority or on the part of the Minnesota inspection department to prevent a competitive market at Superior.

Reply to resolution second: The Minnesota inspection and weighing laws were enacted in 1885 in response to a demand from the grain producers of this State; these laws have been amended and improved from time to time until to-day they are considered by the grain trade to be the best and most efficient laws of their kind in vogue. Minnesota inspection and weighing certificates are accepted the world over as prima facie evidence of what they stand for.

The Minnesota inspection and weighing laws have proved themselves acceptable to the grain producers of this and other States, and as there is no discrimination practiced on the part of the officials in charge of our inspection system, it naturally should follow that our laws in this respect should prove equally acceptable to shippers from all points. No complaint of this nature has come from South Dakota or any other State.

As to "grain hospitals," so-called, otherwise known as "mixing houses," they are by no means inimical to the grain trade. The function of a grain hospital or mixing house, is to improve the condition of low-grade grain, which in its original condition, might be unmerchantable. Instead of being an injury to the grain trade, and to the producer, who finds himself with a damaged crop on his hands, the grain hospital or mixing house, is a benefit. It can hardly be considered a crime to improve the commercial value of any deteriorated commodity. Minnesota mixing houses have improved the condition of hundreds of thousands of bushels of Minnesota and North Dakota wheat, and it follows quite naturally that the owner or operator of such a mixing house is entitled to a just reward for his labor, and this he received in the higher price which he obtains for the better grade of grain that he has established. The business is perfectly legitimate from both a legal and commercial standpoint. No mixing of grain is permitted in any of the public terminal elevators of this State.

We are, therefore, constrained to respectfully decline the request to amend our inspection laws in this respect.

Reply to resolution third. No evidence of any kind is at hand that would prove the implied charge in this resolution that a few persons control the storage capacity of terminal elevators in this State to the detriment of the many. There is nothing in our Minnesota laws that prevents the erection and operation of terminal elevators by any person or persons so disposed. We here again must decline to accede to a request for a change in our laws.

Reply to resolution fourth. Evidence submitted to this legislature shows that the suction draft, so called, does not in a material manner affect the weight of grain and the dockage taken. With a view of correctly ascertaining the effect of the suction draft a subcommittee of the committees on grain and warehouse of this legislature made a careful inspection of this apparatus, while in operation, and found it working satisfactorily. No grain whatever is drawn from the conveyors by this draft; it absorbs and collects only the very fine light dust, which is a menace to the health of the employees and a dangerous explosive in case of fire. As to the weight of such dust, the committee ascertained that from car No. 53348 (Milwaukee), weighing 63,090 pounds, there was collected a total waste of 4 pounds and 7 ounces. The subcommittee viewed the removal of the grain from this car from the time the doors were opened until the contents of the same were deposited in the hopper scales at the top floor of the elevator.

As to ascertaining the value of dockage, as a commercial commodity and accounting for the same to the owner of the grain from whom it is taken, the preponderance of evidence suggests that such a system is impracticable. The solution of this problem, however, ought not to be of a serious nature. If producers in the first instance, and primary elevators in the second instance, would clean the grain before loaded in cars for shipment, there would be very little dockage to account for at terminal points. It is difficult to conceive of a remedy for a condition at terminal points which has its inception at the primary market or with the producer himself. It seems that many producers persist in marketing unclean grain without any regard to the commercial value of the dockage, and as long as they are ready and willing to donate such dockage as their grain contains rather than go to the expense of cleaning the same there can be no recourse.

Our Minnesota dockage of grain is applied under the most liberal rules to the shipper, who is given the benefit of any doubt there may be as to the amount of dockage to be taken; there is nothing to indicate that our system of dockage is generally unsatisfactory to the grain producers of our own State, and as the dockage is applied to all grain coming to our terminal markets without discrimination, it should prove equally acceptable and satisfactory to the shippers and producers of North Dakota. The average dockage per bushel for wheat for ten years in this State was 19.8 ounces. Surely this amount of dockage can not be called excessive.

We are, therefore, again obliged to decline the amendments of our laws or the enactment of new laws for the further regulation of grain dockage in this State.

Reply to resolution fifth. There was established in this State, under the provisions of our grain and warehouse laws, a system of car inspection for "bad order" cars many years ago. This system has been improved upon until it stands in the front rank of all such inspection systems that are in operation in the large grain markets of this country.

Section 2082 of the Revised Statutes for Minnesota for 1905 reads as follows:

"SEC. 2082. Inspectors to examine cars. The chief inspector of grain and any deputy or officials serving under him, before opening any cars containing grain upon their arrival at any of the several places designated by law as terminal points in this State, for the purpose of inspecting the same, shall first ascertain the condition of such cars and determine whether any leakages have occurred while said cars were in transit; also whether or not the doors are properly secured and sealed, making a record of such facts in all cases, and recording the same in a proper book to be kept for the purpose. After such examination shall have been duly made and recorded and the inspection of such grain has been made, the said officials of the state grain inspection department above mentioned shall securely close and reseal such doors as have been opened by them, using a special seal of the said grain inspection department for the purpose. A record of all original seals broken by said officials and the time when broken, also a record of all state seals substituted therefor, and the time when such state seals were submitted, together with a full description of said seals, with their numbers, shall be made by said officials."

All cars arriving at our Minnesota terminals loaded with grain are twice inspected as to the condition they arrive in, and a report is made of all defective or bad-order cars, and the consignee to whom such car or cars were shipped is notified of such facts. The records of the inspection and weighing departments show all bad-order cars that have been received. Our Minnesota system of patrolling the railroad yards and prohibiting the stealing of grain from cars is the most complete of any system of its kind and costs the state grain inspection department of this State approximately five thousand dollars per annum. We can not conceive of any reason, therefore, why we should enact any new laws or amend any existing law in relation to this subject.

In conclusion, we respectfully make these representations and bring them to the official notice of your honorable legislature: On the 11th, 12th, and 13th days of December, 1906, there was held in the city of Chicago, under the auspices of the Grain Dealers' National Association, a congress for the purpose of considering the advisability of adopting uniform national grades. After having agreed to adopt such uniform national grades, subject to the ratification by the several grain exchanges there represented, there was adopted a standard of uniform grades for grain, which are practically the official grades that are now in force in this State. This congress reflected the business judgment and experience of practical grain men, many of whom had devoted a lifetime to the business of purchasing, handling, or inspecting grain at the large grain centers of the United States.

Furthermore, a delegate convention recently held in London, England, after due deliberation, approved of Manitoba and Minnesota inspection of grain to the exclusion of any other systems.

We submit that the action of these bodies in determining and approving standard uniform grades are highly complimentary to our Minnesota system of official inspec-

tion of grain and suggest that in the event of a national grain inspection system, Minnesota grades will be adopted as the standard grades of the nation.

As illustrating our Minnesota system of inspecting and weighing grain, at terminal points, we transmit herewith Exhibit A, showing in detail "How grain is handled under state supervision."

And be it further resolved, That the secretary of state be requested to send a copy of these resolutions to the honorable president of the senate and the speaker of the house of the State of North Dakota, one copy to each of our Senators and Representatives in the Congress of the United States, one copy each to the secretary of state of the States of North Dakota and Wisconsin, one copy each to the president of the senate and the speaker of the assembly of the legislature of the State of Wisconsin, and one copy each to the presidents of the boards of trade of Superior, Wisconsin, and Minneapolis and Duluth, Minnesota.

Approved March 6, 1907.

Mr. ESCH. Do you know to what extent the lessened reputation of American grain is due to the lessened virginity of the soil in America producing that grain?

Mr. GRONNA. Will you ask that question again, Mr. Esch?

Mr. ESCH. To what extent is the lessened reputation of American grain due to the depletion of the American soil in the production of grain?

Mr. GRONNA. Well, I do not know that I could give you the percentage. No one who is familiar with the raising of wheat will deny that you can impair the fertility of the soil and the character of the product by continually raising wheat or any other grain, by taking the different ashes out of the soil, without again sowing it to tame grasses such as clover, which is the best grass that I know of—that is, the best outside of alfalfa—to redeposit nitrogen and oxygen in the ground. We do not deny but that the grade of wheat produced will be inferior to that produced on virgin soil, if it is a producer of grain, and I believe I produce as much grain as any individual in the United States outside of any corporation. I am not here to advertise my farming business at all, but I want to say to the committee——

The CHAIRMAN. We congratulate you, sir.

Mr. GRONNA. I want to say to the committee that last year I had between 8,000 and 9,000 acres of grain and I have the same this year.

The CHAIRMAN. We congratulate you.

Mr. GRONNA. I do not know all about grain, but I know something about it.

Mr. BARTLETT. Does not that difference in the price of wheat in Liverpool and in America tend to diminish or curtail the exportation of wheat, wheat being in this country over a dollar a bushel and cheaper in Liverpool now, is it not?

Mr. GRONNA. I am not familiar with the Liverpool price to-day. But right on that I do not agree with the gentleman who preceded me in regard to the price of wheat in Winnipeg. If he takes the report for last October he will find that during that entire month, not every day, but twenty days out of the thirty, or two-thirds of the time, there was not to exceed 2 cents a bushel difference in the price of grain at Winnipeg and the price at Duluth and Minneapolis, and at one time grain was three-quarters of a cent higher in Winnipeg than in Duluth or Minneapolis.

Mr. JACKSON. There was not any grain in Winnipeg at that time, because it had not been harvested. You could make the price anything.

Mr. GRONNA. I am simply stating facts, and I am not talking politics at all. I am in favor of a tariff on grain. In fact, I favored a duty of 25 cents a bushel on grain.

Mr. JACKSON. I am not talking politics either. I am just stating facts.

Mr. ESCH. To what extent do the farmers of North Dakota do their own elevating, and to what extent are they trying to ship directly to the exporting markets?

Mr. GRONNA. It would be impossible to give it accurately—that is, as to the amount being marketed by themselves. You understand we farm on a big scale. There is no place that you can take your grain with any more convenience than to the elevator. Time is what costs money with us. We are paying $3 a day and board to the common laborer during the fall and summer. We paid that last year. We run the grain from a thrashing machine into large tanks that hold from 125 to 140 bushels, and haul those tanks to the elevator, and all we have to do is to open the end gate and the wheat runs out, and it does not take two minutes to unload the whole load.

It is not an easy matter for a farmer to build an elevator of that kind where you can have that convenience in unloading, so that I would say that most of the grain that is marketed is being taken to the elevators. But a large number of these elevators are owned by the farmers' elevator companies. That is, there are quite a number of farmers' elevators. Of course quite a number of them are called farmers' elevators that are not in fact farmers' elevators. They are owned by small corporations. We do not complain against the elevators of our country. We have no particular complaint against them; that is, as a system. I believe that the men who own these elevators are doing the very best they can to get for the farmers the highest price possible. I believe it is their aim to do that. It is natural that they want to buy on a margin and not lose money on their business transactions. It costs a lot of money to build an elevator, and it costs a lot of money to operate one, and this bill that I have introduced would not, in my opinion, affect the elevator business at all. It will not affect any legitimate grain business. All that this will affect and all that it seeks to change and to stop is the practice that has been going on with these terminal elevators, at least some of them, that buy grain at a certain grade, say No. 2, and it has been proven that it has been shipped out again as No. 1.

Now that works two ways. In the first place, the farmer does not get the price he is entitled to. In the second place, if the grain is mixed, if some good grain is mixed with poor grain, and it is being shipped to a foreign country and sold as good grain, it is natural that the buyers in that country will discriminate against us, because they have found that our grain will not come up to the standard, and that is the real complaint that I have to make against the practice of these terminal elevators and the people who export grain; that they mix it. If it was not a loss to the foreigner, he would continue to send his orders to America and buy his wheat here. It is just the same with us farmers as it is with a wholesale house. We want all the orders we can get.

Mr. BARTLETT. Would the foreigner buy wheat in America at $1.02 and then have to add the freight if he could buy it abroad, at Liverpool or elsewhere, at 98? Would the foreigner buy any sort of wheat,

whether mixed or unmixed, or No. 2, or No. 1, if the export price was over $1 and you had to add the freight? Could he buy wheat in America if the price in Liverpool was under that, without freight?

Mr. GRONNA. I will say to the gentleman that if there was no wheat in Liverpool it would have to come from America, Argentina, the Danubes, or from Russia. As I understand it, very little wheat is raised in England.

Mr. BARTLETT. I understand that, but Liverpool fixes the market price for wheat, does it not?

Mr. GRONNA. To a certain extent, of course; but if they have no grain; if they are short of grain, I take it that the price will be based upon the supply and demand.

Mr. BARTLETT. So long as wheat is high in America and foreign countries, unless the supply runs short, they would be more apt to buy it where it was cheaper, would they not?

Mr. GRONNA. Oh, yes; certainly. I hope the day will come when we will consume all our grain in America, so that we will not have to export a single bushel of wheat.

Mr. BARTLETT. Do you know how much you exported last year?

Mr. GRONNA. I think about 10 per cent of what we produced. We would like to export every pound of it ground into flour. That is what we ought to do.

The CHAIRMAN. Is that all, Mr. Gronna?

Mr. GRONNA. That is all.

Representative GILL, of Maryland. Mr. Gronna, you have state inspection in the State of North Dakota, have you not?

Mr. GRONNA. Yes; but the inspection of our State does not amount to anything. There is very little grain sold in our State. Only a little of it sold to local mills.

Mr. GILL. There is state inspection in the State of Minnesota, where you ship your wheat, is there not?

Mr. GRONNA. Yes.

Mr. GILL. Is that inspection satisfactory?

Mr. GRONNA. We have, of course, had our tilts with the Minnesota inspection; but they have always seemed to be fair and willing to meet us half way, and I have no complaint to make so far as the rules of inspection are concerned.

Mr. GILL. I asked the question in regard to state inspection because in our State of Maryland both the farmers and the handlers of grain in the city of Baltimore found the state inspection very bad, so bad that they petitioned the legislature, of which I was a member at the time, to repeal the law of state inspection, and all the farmers in our State, as well as the business men, have found that that change was beneficial, both to the shipper and the producer. I asked the question so as to get your opinion as to whether you think any government inspection is valuable and if it is not at all affected by what you and I know of as political appointments?

Mr. GRONNA. I will say that we have been greatly benefited by the changes in laws of the State of Minnesota in regard to inspection. I think the gentleman from Minnesota will bear me out in the statement that while we formerly had trouble with the Minnesota inspection, and it has been up before the legislature several times, yet I think the law has been improved. Every time it has been changed I believe it has been improved, and it has been in the interest of the

farmer that the inspection has been made more rigid. The changes every time have really been in the interest of the producer, and we shall certainly be opposed to repealing the law even for state inspection.

Mr. GILL. You desire the state inspection to remain?

Mr. GRONNA. Yes.

Mr. GILL. Then I ask you if you have a satisfactory state inspection and on top of that you ask a government inspection, inasmuch as we can not pass a law here to take the place of the state inspection, won't it impose a double cost of inspection on the producer?

Mr. GRONNA. Not necessarily, because the State can cooperate with the Federal Government. I do not think there would be any trouble about that. The gentleman knows that in the case I refer to, the shipment of grain to foreign countries, the State can not possibly give the inspection that is required, because they have not the authority. When grain is handled in interstate commerce, they have nothing to do with that, nothing to do with anything except the inspection within the State.

The CHAIRMAN. That is all. I have been asked by several parties, Mr. Gronna and Mr. Pearre, as to whether it would be well to have subsequent hearings on these bills. The understanding then was that this was not to be the final hearing.

Mr. GRONNA. Yes. I thank the chairman for that statement. I telegraphed the Society of Equity, the officers of the Society of Equity in my State, Mr. U. G. Pierson, who is president, and Mr. J. M. Anderson, who is secretary, both living at Casselton, N. Dak., and I received a reply from both of them that it would be impossible for them to attend, and it seemed impossible to get anyone to come at this particular time, because the farmers are all busy. I spoke to the chairman, and he was kind enough to assure us that the hearings would go on in accordance with his statement.

The CHAIRMAN. This is an important matter, and full opportunity on both sides will be afforded before action is taken.

Mr. STEVENS. Before this report is printed I think Mr. Gronna and I should look it over. Some of it does not need to be printed.

Mr. GRONNA. I shall be glad to do that.

Mr. WANGER. The Philadelphia Chamber of Commerce has presented a brief and does not care to be heard from further.

STATEMENT OF MR. H. D. IRWIN, REPRESENTING THE COMMERCIAL EXCHANGE OF PHILADELPHIA, PA.

The CHAIRMAN. Whom do you represent, Mr. Irwin?

Mr. IRWIN. The Commercial Exchange of Philadelphia. I would like to ask you, Mr. Gronna, does the country elevator sell wheat, or does the farmer sell it to the Minneapolis or Duluth market?

Mr. GRONNA. Oh, yes; a large proportion of it.

Mr. IRWIN. Does the country elevator man clean that wheat before he ships it into Duluth or Minneapolis?

Mr. GRONNA. At the present time I believe most of them do it and have done that in recent years.

Mr. IRWIN. Are the farmers interested in these country elevators to a great extent?

Mr. GRONNA. In some instances they are interested.

Mr. IRWIN. Those country elevators pay a pretty good profit on the business they have, do you think?

Mr. GRONNA. In some years they do, and in some years they do not. I have not been interested in elevators myself. My son has been interested to the extent of a couple of thousand dollars in one, but he sold his stock last year and said he did not make any profit at all. He got tired of it and sold out.

Mr. IRWIN. Under this bill would the Government inspect grain, for instance, at the original point of shipment in North Dakota?

Mr. GRONNA. Not at all.

Mr. IRWIN. They would have no jurisdiction over that?

Mr. GRONNA. Not at all.

Mr. IRWIN. What would happen on an export grain shipment leaving from Iowa or North Dakota and inspected at Chicago as No. 1 federal inspection, when it reaches Boston out of condition, when the Boston exporter had bought it, and it had received federal inspection at Chicago, and is sold abroad at that? It reaches Boston, and the bill provides that it need not be reinspected. The bill also provides that it can be reinspected. But let us suppose that the Boston shipper shipped it without reinspection, and the Liverpool buyer has no redress whatever.

Mr. GRONNA. You refer now to corn?

Mr. IRWIN. Yes.

Mr. GRONNA. I must confess my ignorance as to corn. We only produce corn in small quantities in North Dakota. But it is hardly fair to speak of corn in the same way as with wheat. You can throw wheat out on the open ground and let it stay for thirty days, and it will not spoil unless the weather is hot.

The CHAIRMAN. Mr. Irwin, we do not permit examinations of that kind except for information. Your whole question was a mere matter of argument.

Mr. IRWIN. I did not mean it that way. I was asking for information.

The CHAIRMAN. You were asking a supposititious case of what might happen. That is a matter of argument. If you want to be heard on this subject we will hear you, but we will not permit the examination of a witness that way as a matter of argument.

Mr. GRONNA. I thank you, Mr. Chairman.

The CHAIRMAN. Are there any other witnesses who desire to be heard?

Mr. DAISH. There is a gentleman from Baltimore who wants to be heard, Mr. Vincent. He has made careful investigations in regard to this whole matter.

STATEMENT OF MR. J. C. VINCENT, GRAIN INSPECTOR, OF BALTIMORE, MD.

The CHAIRMAN. Please give your full name, Mr. Vincent, and the position you occupy.

Mr. VINCENT. My name is J. C. Vincent, of Baltimore; grain inspector, member of the board of directors of the chamber of commerce. I am here as one of the committee representing Baltimore.

I want to open the subject by stating that for some years federal inspection has been agitated, but until within the last two years those

in the trade took no interest in the subject—that is, at the terminal markets. It was supposed, so far as we could ascertain, to be a fight between Minnesota and North Dakota. It was a matter in which the question of North Dakota came up, the question of rates, whereby the people in North Dakota felt that there was an injustice done them. Parties took hold of it. The Government in 1892, through Secretary Rusk, suggested inspection as a panacea for the benefit of the farmers. It did not seem to make much headway until about 1906.

At that time there was a change in the duty on corn to Germany, going into effect on the 1st of March, when the duty on corn was raised from 7 cents to about 18 cents a bushel against America, and at the same time Russian barley, which before had been 30 marks, was reduced to 13, making a handicap of 20 cents a bushel against American corn since 1906 as compared with the condition previous to that time. Before the duty went into effect the whole of Europe felt that corn would go up. The Germans bought largely. In looking over the figures I see that from Baltimore in December, 1905, and January, 1906, we shipped more corn than we shipped in the whole of last year, and more corn than we shipped the year before. We shipped 11,000,000 bushels in three months, and in the year we shipped 16,000,000 bushels. Nearly every other port on the Atlantic seaboard shipped corn. The purchases had been made by the Germans, all expecting that the market would go up. They bought more than they could take care of. The steamers arrived and were delayed in unloading; some of them made long trips, and the larger proportion of the corn was out of condition. A large proportion of the corn had been sold in what we call dry hulls, sold by western men of St. Louis and Kansas City, with condition guaranteed on arrival.

That meant that on the arrival of the vessels and discharge of the cargoes sealed samples would be taken and sent to London, to be arbitrated in the manner that was spoken about as to other grain by Mr. Jackson. They might get one shilling and a quarter, or one shilling six, based on the judgment of whoever sat on those samples. But corn when it goes out of condition until it gets mahogony is hard to hold, unless it is properly handled and handled in a way that in Europe they have no facilities for. The result was that the corn was put in scows, and a great deal of it had been sold originally to go up into the interior and sold as sound corn and good corn, American No. 2 corn. The buyers who were consumers would not take it at a reduction, and when the sample was sent to London it had dried out some. The decisions were rendered in London, and, according to the contracts, the decision had to be accepted. The result of it, however, was that the original buyer and the importer secured, in his judgment, the difference in value on account of the corn going out of condition. Whatever the decision was, whatever the amount of damages given by that tribunal was, the American paid for it, those who had sold it on those terms. Most of the corn from the Gulf was sold on those terms.

Now at that time Denmark came in, having the same trouble, but to a less extent. The men from Germany naturally became very much soured on American corn. At that time the agitation about the McCumber bill and the Gronna bill was in force here. Now here, as I take it, basing my opinion on Mr. Gronna's statement two years

ago—where he had introduced his bill, as he said, for Mr. McCumber—we can call Mr. Gronna and Mr. McCumber partners in this inspection business. I have heard what Mr. Gronna stated to-day, and I have read where he did not wish to state anything but facts. We have not had an opportunity until to-day to state some facts against the aspersions that have been cast on the exporters, both on this side of the water and on the other side of the water, by the advocates of federal inspection, by government officials either on this side or reports of what they have heard from some of the consuls on the other side, all of which has gone into print and has been sown broadcast throughout this country; and what has been printed, to my mind, has been only what will uphold the idea of the necessity for federal inspection.

Now, gentlemen, mentioning Mr. McCumber mentioning the fact, as stated by Mr. Gronna regarding the last bill, that it was virtually the same bill as this and that he was doing it for that gentleman, I want to call your attention to what happened at the hearings that were held heretofore on this subject. There was a report from the Senate committee to the Senate, and on the floor of the Senate the port of Baltimore was attacked.

The CHAIRMAN. I may tell you that you will not be permitted to make any references here to what was said on the floor of the Senate.

Mr. VINCENT. Very good, sir. I was leading up to some information that I wanted to put before you. In 1908 in the printed pamphlets you will find references have been made to correspondence with the London Corn Trade Association. In reply to one of those letters it is stated that there is unjust inspection on this side and that the exporters here are not honest, and one reference is made in one of the letters from the other side to the effect that the American exchanges had not, as they thought, taken cognizance of the correspondence which had been sent to this side. I want to say that in 1906, following the statements from the other side regarding the damage to the corn, the Baltimore Chamber of Commerce sent out, on July 16, 1906, the following circular:

ACTION OF BOARD OF DIRECTORS, BALTIMORE CHAMBER OF COMMERCE, JULY 16, 1906.

To whom it may concern:

It has been brought to our notice that the Danish newspaper "Borsen," published an article criticizing the official inspection of corn shipped from the Atlantic ports, and suggesting a governmental investigation, in which it includes Baltimore.

It is a fact that one condition in the American grain contract stipulates "official certificate to be final as to quality," but we deny that the "calamity and the danger of the whole business is solely on account of this clause," as applying to Baltimore.

It is self-evident that merchants can not afford to be derelict in protecting their customers, if they expect to hold their business; and as this association was founded primarily "to inculcate and maintain just and equitable principles of trade," the board of directors gladly welcomes any investigation desired respecting its methods of inspection.

Those familiar with the handling of corn must recognize that this cereal is subject to deterioration from climatic and atmospheric influences at certain seasons and under varying conditions, and it sometimes happens that damage is reported in the hold of a steamer next to the stoke hole, when other holds turn out in good condition, and all of said grain was passed by the same inspector.

This is a matter that our exporters have lately brought to the attention of the board of underwriters, with results which should minimize risks in the future.

It has also been claimed that corn reached Europe in apparently good condition when landed ex ship, but afterwards depreciated when forwarded to the interior, thus showing conditions can arise in Europe over which an inspector or shipper on this

side has no control, as corn will absorb moisture from the atmosphere, and this, with light and heat, will lead to germination.

There is an intimation that European buyers are at the mercy of inspectors, who are dependent upon interested shippers for the position they hold. We emphatically deny that this applies to Baltimore.

For the benefit of those who are not familiar with our workings, we give the following facts:

The board of directors appoints a chief inspector and such other assistant inspectors as may be deemed necessary, to serve for one year unless otherwise removed.

It also appoints a corn committee of five members, actively engaged in the business, conversant with the cereal, and representing, as nearly as possible, the several branches of the trade, whose duties are prescribed in Article X of the by-laws, and are as follows:

THE GRAIN COMMITTEES.

"SEC. 7. The respective grain committees shall, as early as practicable, establish standards of the grades of grain, and may make changes therein, but no change shall be made until notice of the same shall have been posted for thirty days on the bulletin board of the chamber; they shall hear and determine all appeals from the decision of the inspector (subject to a further appeal to the board), and shall keep records of their proceedings. It shall be the duty of the wheat, corn, oats, and rye committees to visit the elevators when, in the judgment of the chairman, a majority of the committee, or of the board of directors, it shall be deemed necessary to examine the grain in the elevators, and to see that the inspection is conducted in accordance with the standards established, and they shall report in writing to the board at each regular meeting."

Besides same, we have a bureau of inspection and weighing, comprised of the president, together with the chairman of the corn and wheat committees. These three gentlemen have supervision over the inspectors and weighers, and issue instructions for their guidance in the discharge of their respective duties, as covered by Articles XI and XXVI of the by-laws, as herewith:

ARTICLE XI.

"SEC. 2. The duty of the chief inspector shall be to supervise the inspection of all grain, hay, and straw arriving at the various elevators, and such other public storehouses as may be established from time to time, or by vessels, at such places as may be designated. He shall furnish certificates of inspection when desired. He shall report to the board of directors all evasions of the rules regulating inspection and all attempts to deliver grain, hay, and straw of a lower grade than that called for by the warehouse receipts, and shall report monthly in detail to the board the workings of this department.

"SEC. 3. The assistant inspectors shall inspect all grain, hay, and straw arriving at the points where they may at the time be stationed, and shall perform their duties under the direction and supervision of the chief inspector. The first assistant shall perform the duties of the chief inspector in the absence of the latter; in the absence of both the duties shall devolve upon the second assistant.

"SEC. 4. All inspectors of grain, hay, and straw, and weighers of grain shall, before entering upon the discharge of their duties, take and subscribe an oath before a notary public that they will faithfully and impartially discharge their duties and abide by all the provisions of this article of the by-laws. The inspectors and weighers shall give bond for the faithful and impartial performance of their duties. The oaths of the several inspectors and weighers shall be attached to their respective bonds. The penalty of the bond of the chief inspector shall be $5,000, that of the first assistant $2,000, and that of each of the other inspectors $1,000, and that of the chief weigher $2,500, and each assistant $1,000. They shall not be directly or indirectly connected with the business of dealing in or handling grain, hay, or straw for their own account, or in the employ of others, and shall not place themselves under pecuniary obligations to parties engaged in the business of receiving or shipping grain, hay, or straw."

ARTICLE XXVI.

INSPECTION RULES.

"SECTION 1. No outward certificate of inspection shall be issued for grain which is not equal in every respect to the average of the stock in the export elevators, of the same grade as that for which the certificate is issued. This same rule to apply to all shipments made either from afloat or uptown elevators.

"SEC. 2. When the crop year is stipulated in the certificate issued, the grain must be of that crop.

"SEC. 3. No mow-burnt wheat shall be allowed to go into the grades of No. 2 red western or No. 2 red winter; and no damaged rejected corn into the grades of No. 2 white or mixed corn.

"SEC. 4. No stock wheat shall be mixed for a higher grade than that for which it was originally put into stock.

"SEC. 5. No mixtures are allowed in No. 2 white corn or mixed corn during the germinating season—from April 1 to July 1 of each year.

"SEC. 6. The various grade committees shall furnish the board of directors copy of all rules formulated with regard to grading.

"SEC. 7. The bureau of inspection and weighing shall change the inspectors, between the various export elevators, with great frequency and without notice. No inspector shall be at any one export elevator longer than two consecutive months.

"SEC. 8. The chief inspector shall give close personal supervision of mixtures, also keep a record of all mixtures made in the export elevators, together with date and grades.

"SEC. 9. When an appeal from decision of an inspector is made, consignee shall be notified in time to have a representative present (if he so desires) when samples are drawn."

It should be stated that we have a large local consumptive market for feeding stuffs, so there is no occasion to ship back to the interior for cattle fodder, although we oftentimes ship coastwise.

Baltimore has taken the lead in the export of corn from the United States for years, and has built up a reputation for fair and honest dealing, so that we feel that the aspersions on her merchants should not be allowed to go unchallenged, as we have aimed to place all the safeguards possible around our official certificates.

Our chief inspector has been associated with this chamber for over thirty years, and has lately been elected president of the National Chief Grain Inspectors' Association for these United States, which shows the general confidence and esteem in which he is held.

Some of the subordinates have been with the department from ten to twenty-six years, and we have apprentices in the service who are promoted to inspectors as their ability and experience warrant.

We are not infallible and regret that occasionally some Baltimore shipments have turned out unsatisfactory in spite of all the safeguards which we have found it possible to use; but we do claim that we have as nearly perfect a system of inspection and supervision as can be established, and that our business is carried on with honest effort to promote good relations with all parts of the world.

By order of the board.

DOUGLAS M. WYLIE, *President.*
HENRY A. WROTH, *Secretary.*

Now, that was sent broadcast throughout Europe. That was July 16, 1906. On October 15, 1906, this was sent out:

BALTIMORE CHAMBER OF COMMERCE,
Baltimore, October 15, 1906.

[Action of the board of directors at special meeting held on above day.]

To whom it may concern:

Referring to our circular letter of July 16, showing the methods of inspection at this port, we now wish to advise foreign buyers that since that date we have carefully taken up the matter of grading grain with the Department of Agriculture at Washington, and persuaded it to establish at this port one of the two laboratories (provided for in appropriation made by Congress) for experimenting with and testing the moisture in corn.

There is no intention of making this a government inspection, but the aim is to assist our inspection department and the commercial organizations in securing a more uniform grading of corn, which can only be done by experimenting for probably several years, as they have no basis themselves for knowing what maximum moisture in corn will make it safe to carry under varying conditions or climatic influence.

The government official will work closely with our inspectors and the corn committee, and give the benefit of any suggestions that may be deduced as the work progresses, to safeguard the interests of all concerned.

It is to be distinctly understood that the official inspection certificate of the Baltimore Chamber of Commerce will be the only certificate issued, as heretofore.

It is interesting to know from the Washington officials that of 35 shipments aggregating 124,826 tons, which their representative examined on arrival in Europe, from January to May, 1906, that 10 shipments from Baltimore, representing 42,125 tons, or over 30 per cent of the total, showed a much smaller percentage of damage than from any other Atlantic port.

In this connection, however, we would state that specific mention was made of 5 cargoes of this lot, showing main damage was in the holds adjoining boilers and machine rooms. This shows that the action taken by our exporters this summer, in getting the board of underwriters to formulate rules regarding ventilation, was warranted.

We feel confident, that our work, as outlined above, will show intending buyers that we consider their and our interests mutual; and we expect to maintain our position as the leading corn export market of the United States.

By order.

DOUGLAS M. WYLIE,
President.

HENRY A. WROTH,
Secretary.

Now, that was information given to Europe. On April 9, 1907, this letter was sent to Mr. Robert A. Patterson, chairman of the European national committee of the London Corn Trade Association:

BALTIMORE, *April 9, 1907.*

MR. ROBERT A. PATTERSON,
Chairman European International Committee,
London Corn Trade Association, London, E. C., England.

DEAR SIR: Referring to your communication of January 25, addressed to the president of this chamber, I beg to advise you, officially, that the following reply was adopted by the board of directors at a meeting held this day, to wit:

Section 1. Your European committee calls upon our chamber of commerce, as well as others, to draw up uniform rules for grading grain to be approved by you. We have rules applying to this market, and copies of same were sent to Europe July 16, 1906. Therefore your commercial bodies should be familiar with same, and as far as we know there has been no criticism or comment as to these rules, unless it be to express surprise that so many safeguards, previously unknown to you, are in existence in this market. Our board has already advised Europe that we courted full investigation as to our system; but, as this chamber can not control the grading in other markets, we are not able to enforce uniform grading as applied to other United States markets.

Sec. 2. As far as we know, "association" contracts in London, Liverpool, and elsewhere are drawn up and changed at will by the members of said association, without consultation with Americans, who are simply notified when same will be effective. We believe that the commercial bodies on this side are more capable of legislating for the existing conditions in America, made necessary by a variety of reasons unknown to most foreigners. We can not, therefore, agree to allow European buyers to establish rules for American sellers. Supply and demand will always regulate the terms between the buyers and the sellers.

Sec. 3. We agree that inspection certificates of railroad elevators or private trading companies, or persons, should not rank with official certificates of well-known organizations, but if the buyers are willing to accept same, based on the established reputation of the seller, it would be a matter of agreement.

Sec. 4. To make, at the beginning of the season, samples of grain to be sent to Europe, and kept as a basis of grade, is impossible, as the grain moves from such a vast area of territory. Some sections ship early and some later, the grain from different sections varying more or less in color, size of berry, and general appearance. Absolute uniformity throughout the season can not therefore be maintained.

Sec. 5. This chamber does not and can not specify on what basis contracts shall be made between its members and foreign buyers—the basis of contracts is entirely one of mutual agreement between the contracting parties. Under our inspection rules, however, any buyer of graded grain has the right to appeal within three days from the date of inspection. This right of appeal is open to all, and the contracts being made on basis of "official certificate of inspection final," this period of three days fully covers the case. To agree to arbitration as to the correctness of inspection after the arrival of the grain in Europe would of course nullify the present

contract basis of "inspection certificate final." So long, therefore, as contracts are made on the basis of "inspection certificate final," the principle of arbitration in Europe as to quality can not enter into consideration.

Customs, long established, should not be changed for light or transient reasons, but if abuses exist it is right and proper to provide new safeguards for future security.

Reference is made to the "system with its faults and failings," but we consider the system, as carried out in this market, fulfills the requirements of Europe nearer than any other market; and although one of the purposes of this organization is to establish and maintain uniformity of commercial usage, we can not arrogate to ourselves to tell other bodies as to what shall govern their mode of business. The inference "that the conference at Chicago in December shows general dissatisfaction on this side," is not warranted, as it was the outgrowth of efforts that have been in embryo for several years past on this side to bring about uniformity in grading as far as possible; but it is generally conceded that uniformity in description only is feasible, and application only in a general way.

The United States laboratory work at this port, which was started previous to the London conference, should show Europe that this organization is earnest in its endeavors to find out "the faults and failings in the existing system," if any, in the grading of maize. We can safely say from facts already gained that some of the theories advanced in America and in Europe are not tenable, and by the end of this season we shall probably be able to demonstrate what is feasible, both to the western shipper and the European buyer.

We feel sure that many of the European grain trade, represented by Mr. Patterson, recognize the difficulties to be encountered on this side in enforcing any arbitrary action, for it has already been proven that some buyers are able and do discriminate when making purchases, and they will continue to do so, basing their purchases on those official certificates in which they have confidence.

When buying on certificate, they are justified in believing that any official certificate shall faithfully represent the quality of the grades, and so sustain the integrity of both the seller and the organization that issues it.

We consider the best method for Europe to adopt would be to send delegates to America, including, if possible, some of the trade who are already familiar with the system of handling grain here, who can then investigate the methods in vogue in the various markets, confer with the trade bodies separately, point out abuses, suggest remedies, and so decide for themselves with whom they prefer to trade.

The whole subject in the end resolves itself into the question On what basis can Europe buy American grain on the best favorable terms, all things considered?

Without attempting to deny that individual cases of improper inspection might occur, it yet remains true that such cases represent a very small percentage of the great volume of business done on this basis. Should sellers in America ever agree to change the basis of contract as suggested, the cost to foreign buyers would be sharply increased on each and every transaction to cover the additional risk assumed.

In the end we are decidedly of the opinion that the present basis of sale, "certificate of inspection final," will be found to be more favorable to European buyers than the proposed contract, which seeks to do away with the condition.

The commercial bodies in America issuing such certificates should be, and we believe are, fully alive to their responsibility in this respect, holding as they do a neutral position between the seller and the buyer, and owing quite as much obligation to the one as to the other. Certainly the Baltimore Chamber of Commerce so understands, and its object is at all times to surround its inspection with every possible safeguard, both as a moral duty and for the further reason that it knows that a spirit of fair dealing must always be the foundation stone of which all permanent trade relations are to be built up.

Very respectfully,

———— ————.

Now, I want to say that in the letter from Mr. Patterson to Mr. Douglas M. Wylie, under date of February 15, 1908, and in the correspondence which some of these gentlemen have been having with the other side, I see that Mr. Patterson makes some suggestions, and he says, "This has been found practicable in Canadian government inspection, and doubtless will be found so with you." Reference has also been made to the question of our quality of wheat, so that I think if you will permit me I would like to read a word or two, because it has been used as an argument, by those who are in favor of government inspection, that they had it in Canada.

The CHAIRMAN. We would be very glad for any of the witnesses to give us information, but arguments we do not care for.

Mr. VINCENT. Then I will pass this map up, and I would like you gentlemen to see it. That is a map [exhibiting same] covering the railroads of Canada, and I want to tell you that the bulk of the grading of grain is done at one point, and that is Winnipeg. Now, it is a very different proposition to have a government inspection in a country where only a few grades of grain are brought for export, where the movement is largely by the railroad trains and is not so diversified as it is in the United States, where they can make up whole trainloads, miles of cars, which they do, and that grain goes through one point.

The CHAIRMAN. What difference is there so far as the administration is concerned?

Mr. VINCENT. I claim it is impossible to have government inspection under the conditions that we have to meet, and it is absurd to put Canada up as a basis or model for inspection in the United States. Because the system works in Canada is no reason why it should work in the United States, when the grain moves from all parts of the country and goes north and south and east and west.

The CHAIRMAN. That would be merely a matter of expense.

Mr. VINCENT. I think it would be impossible, myself.

Mr. WANGER. Is it your point that there would be a lack of uniformity?

Mr. VINCENT. Yes; it would be impossible to have uniformity in the United States, to my mind.

The CHAIRMAN. It would be more nearly possible to have uniformity if the United States were inspecting grain, would it not, than if a whole lot of different institutions were inspecting grain at different points?

Mr. VINCENT. They can not do it as they do it in Winnipeg.

The CHAIRMAN. Do you think the uncorrelated forces would be more likely to have uniformity than the correlated forces making the inspection?

Mr. VINCENT. One inspection can only be made at one place. Now, I have got statistics here as to the dockage on the elevators, and so forth, and I have samples here which represent 220,000 bushels of wheat shipped from North Dakota to Baltimore by rail that have not been through any mixing house. I can give you samples showing the dirt and seeds that were shipped by the Dakota farmers or dealers, or railway people, shipped to the seaboard without transfer, and where it had to be cleaned and blown.

The CHAIRMAN. Give us those figures.

Mr. VINCENT. And the result of that was that it was wheat graded No. 2 and No. 3, but it went out as No. 1. There was no cheating about it and nothing was done but what was right. The farmer received the proceeds of the screenings, less the cost involved in it, but we enabled him to fulfill his contract.

The CHAIRMAN. I understand you to say you could give the facts and the samples. I supposed you had them.

Mr. VINCENT. I will show them to you right here. The question was also raised during the previous hearings regarding the quality of the wheat. I will show you samples of Canadian wheat as against Minnesota wheat. This is Dakota wheat [exhibiting sample]. Here

is No. 1 wheat. Over 46,000 pounds of that stuff [indicating waste matter] was taken out of that.

Mr. WANGER. These are extractions from shipments? They do not represent the shipments? They do not represent the stuff that was forwarded?

Mr. ESCH. They are detractions.

Mr. VINCENT. That was the shipment that was sent out [submitting specimen], with that all mixed together. It is No. 1 wheat when that material has been taken out. It is No. 1 wheat in that form, and there is no cheating in that. Those samples have been sent on purpose to be used down in Washington. We tried to get up before the committee at the last session, but we did not have our chance except for a few minutes.

Mr. GRONNA. May I ask the gentleman a question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. GRONNA. You do not claim that this is a pure sample of any one grade of wheat?

Mr. VINCENT. I claim it is a sample of No. 1 durum wheat, Baltimore inspection.

Mr. GRONNA. Do you claim it is pure durum wheat? You will admit it is a mixed sample of wheat?

Mr. VINCENT. I never saw a sample of wheat that was not mixed; it is mixed in the field, to begin with.

Mr. GRONNA. The idea I wanted to convey is this: We can take soft wheat, sow it in the Northwest and, by raising it for at least five years, we can produce a hard quality of wheat. This is not what is generally called hard wheat; it is durum wheat, which originally was a soft variety of wheat, known so all over the world; but it has been produced year after year in that northwestern climate until it has been acclimated and become a hard variety of wheat, a No. 1 wheat, or rather, a hard wheat. But strictly speaking it could not be called a hard wheat, could it [indicating sample]?

Mr. VINCENT. I call it durum wheat; it is durum wheat. It is a wheat that the Agricultural Department has done good work with for six or seven years, and has increased it—that is, the growing of it—to the benefit of the farmers.

Mr. GRONNA. It is also a mixed wheat, is it not?

Mr. VINCENT. There is a little white wheat in it; that is, in all the samples I have seen. I wanted to show those samples as a proof that wheat which grades No. 3 or No. 2 can be taken into the elevators, the stuff taken out—the dirt and seeds—and be made No. 1. That has been used in the arguments—not by Mr. Gronna—but used by others as one of the reasons or necessities for government inspection. It has been talked about all over the United States and printed about that the farmers were being cheated. There is the grain that the farmers shipped to us as No. 1 wheat [indicating sample]. Now, we have treated them right; we always try to treat them right.

The CHAIRMAN. You say it was shipped to you as No. 1 wheat? Who had graded it as No. 1 wheat?

Mr. VINCENT. I say the farmers, I suppose, shipped it as No. 1.

The CHAIRMAN. The farmers ship the wheat, but they do not grade the wheat.

Mr. VINCENT. Well, the country elevators, I suppose; they sold it as No. 1 wheat.

The CHAIRMAN. Wheat is sold that way, is it not—sold on sample?
Mr. VINCENT. We bought it as No. 1 wheat.
The CHAIRMAN. Is it not sold on sample?
Mr. VINCENT. Mr. Gronna may tell you.
The CHAIRMAN. You can tell me. You are in the grain business in Baltimore.
Mr. VINCENT. I say we bought it on grade on Baltimore inspection No. 1 durum wheat.
The CHAIRMAN. You bought it after it had been inspected in Baltimore, then?
Mr. VINCENT. No.
The CHAIRMAN. The wheat is shipped to Baltimore to be sold on the exchange there. Is it sold by sample?
Mr. VINCENT. It is generally graded beforehand. A western man will sell us so much wheat and so much corn for such and such delivery.
Mr. GRONNA. You say this is No. 1 wheat [indicating]?
Mr. VINCENT. Yes, sir.
Mr. GRONNA. Do you mean No. 1 hard wheat?
Mr. VINCENT. No; No. 1 durum wheat.
Mr. GRONNA. What is the difference in price of the durum wheat and the No. 1 Saskatchewan Fife?
Mr. VINCENT. Now, I should judge it was about 20 cents a bushel; that is, as far as grown in the United States.
Mr. GRONNA. That is the way it is exported?
Mr. VINCENT. Not always; it has been within 5 cents.
Mr. GRONNA. It has been sold as close as 5 cents to the Saskatchewan hard wheat?
Mr. VINCENT. I do not know what you call Saskatchewan wheat. You are speaking of Saskatchewan; you mean No. 1 Fife, not grown in Saskatchewan?
Mr. GRONNA. No, sir; not at all. The reason I ask that question is this: The farmers have to sell this wheat all the way from 10 to 20 cents a bushel less than the Fife wheat.
The CHAIRMAN. All of the wheat that is sold on the exchange is either sold on sample or else based upon the grade that it receives at Baltimore?
Mr. VINCENT. I said all this had the Baltimore grade, but until that arrived the man shipped it——
The CHAIRMAN. And he took chances on having it graded in Baltimore?
Mr. VINCENT. Yes, we trust him to ship us the wheat.
The CHAIRMAN. But you do not trust him that it will grade No. 1 Durum until you get the grade?
Mr. VINCENT. Certainly not But we could never do an export business if we could not buy it beforehand, and bring it from a thousand to fifteen hundred miles, and until we had the wheat, until the grain had arrived to see whether it graded or not.
The CHAIRMAN. Suppose it did not grade No. 1, you would take it and pay for it I suppose?
Mr. VINCENT. We generally leave a margin on the draft.
The CHAIRMAN. You do not take their statements for it, then, unless it does so grade?

Mr. VINCENT. When it comes there it has got to pass, of course. That is what I wanted to show you, that there were 28,000 bushels that did not pass, and we handled it for their account and took the dirt and seeds out. I simply mentioned that to show that it is how business is done all over the country. It is legitimate, and it is for the benefit of the farmers. Now, I will refer to the corn and I will also refer to the pamphlets or statements that were sent to Europe regarding the laboratory work. The first United States laboratory for commercial use was opened in Baltimore November 13, 1906. Some of the suggestions I have made have been carried out and some that I have made have not been carried out. The Government at the outstart thought, or I think the officials of the Agricultural Department thought, that within twelve months they would be able to adduce something that would enable us to have an uniform inspection. We have been working now about three years and a half and it has not been proven yet that uniformity is possible in grading grain.

Mr. ESCH. Does the laboratory recommend the drying of corn before shipment?

Mr. VINCENT. I do not know that they have made any recommendations at present. I had a talk with their technologist the other day and he seemed to have the idea that if we could get corn with only 10 or 15 per cent of moisture then it would be safe.

Mr. ESCH. In the testimony given two years ago 14 per cent was considered safe.

Mr. VINCENT. Well, they have been getting down. Various western men were working for uniformity of grades as to moisture and most all thought that 19 was all right; they did not want 18 per cent for the No. 3 corn. Within the last few months the Illinois people went to Chicago to investigate, and it was claimed that even 19 per cent of moisture in corn was too little, it should have more.

The CHAIRMAN. When you say the Illinois people, to whom have you reference?

Mr. VINCENT. The grain dealers.

The CHAIRMAN. What Illinois grain dealers?

Mr. VINCENT. The Grain Dealers' Association. They have an association there, and a delegation went there. I want to say we were all figuring upon bringing about a better understanding between the western sellers and the seaboard, and by teaching the western man that he should look after his grain before he shipped it to market, instead of complaining to the receivers at the seaboard, when it reached the market hot or rotten, that it would do us all good.

The CHAIRMAN. In your opinion has this laboratory at Baltimore, the government laboratory, been a good thing?

Mr. VINCENT. Yes, sir.

The CHAIRMAN. And done a successful work?

Mr. VINCENT. Yes, sir; though they have not done as much as we would like. You see, they started with the idea they could fix the grades for grain within a year, but I argued it would take two or three years.

The CHAIRMAN. They argued before us it would take longer than that. If you have any information to show us that they thought it could be done in a shorter time, I would like to have it.

Mr. VINCENT. This was when they first started. I have the correspondence here with Doctor Galloway and the department,

which I can show. I want to bring this in because the claim has been in print, and sent to Europe, that the exporters from the seaboard markets are not treating the buyers right; they were not treating the importers on the other side right. We have in Baltimore only a few exporters, but within thirty-five years Baltimore has shipped one thousand million bushels of grain on Baltimore inspection, and we do not propose to sit still and have it intimated——

The CHAIRMAN. We are much more interested in getting information than in vindicating the character of the Baltimore exchange.

Mr. VINCENT. I only wanted to lead up to it. Here is information that will show that Baltimore has been seeking to do what it can, not only for this country but for the other side. Here is the report of the Baltimore Grain Standardization Laboratory to the chairman of the laboratory committee of the Baltimore Chamber of Commerce, ending December 31, 1909:

As the objects of the laboratory were fully discussed in a report made to Mr. J. C. Vincent, chairman of the laboratory committee, dated January 31, 1909, it is not thought necessary to enumerate them here. In February of this year the first experiments were begun to determine the causes of deterioration of corn while in storage.

And then some particulars are given. I have a copy of this, which I will pass to your stenographer. What I want to call attention to is this:

In carrying on the special investigations enumerated above we have had the cordial cooperation of the Baltimore Chamber of Commerce, and its various committees, through the chairman of the laboratory committee, and also the transportation and elevator companies, who have furnished facilities for carrying on the experiments.

In addition to the experimental work a large number of samples were submitted to the laboratory by the trade for analysis, on all of which reports were issued. The number of samples submitted by the trade from the time the laboratory was established in November, 1906, until December 31, 1909, is as follows.

It gives it in detail, making a total of 8,134 samples. Then they say:

In addition to the above samples submitted by the trade, 10 per cent of the receipts and exports were examined by representatives of the laboratory during the year 1909, and 1,342 samples were secured, making a grand total of 9,476 samples analyzed and tested in the laboratory from November 13, 1906, to December 31, 1909, representing approximately 70,000,000 bushels of grain.

There has not been a shipment from Baltimore since that laboratory was established but what a sample was tested in the laboratory before it went to Europe.

The CHAIRMAN. Why have they done that?

Mr. VINCENT. We have done it for a check on ourselves and a check on our own inspection.

The CHAIRMAN. Why should the Government inspect that grain for you?

Mr. VINCENT. They asked us to furnish samples.

The CHAIRMAN. They inspected it, did they not?

Mr. VINCENT. No, sir.

The CHAIRMAN. They inspected the samples, did they not?

Mr. VINCENT. Certainly they did; they wanted samples to work on; they wanted it straight and aboveboard, and we gave it to them.

The CHAIRMAN. Why should they take samples of all the corn sent out of Baltimore and give you the result of the inspection of those samples?

Mr. VINCENT. No reason except they wanted it.

The CHAIRMAN. Did you want it?

Mr. VINCENT. We did not want it the first time, but we are satisfied to have it now.

The CHAIRMAN. Do you want it now?

Mr. VINCENT. We are satisfied to run our own business; if nobody else gets it we are satisfied not to have it.

The CHAIRMAN. They do not get it in all the other exporting countries, do they? They do not have laboratories in all these exporting places?

Mr. VINCENT. Not all; some have, but not all; some of them do not like it for that reason.

The CHAIRMAN. It looks to me like a wholly useless expense to examine the grain shipped out of Baltimore.

Mr. VINCENT. You would do more good to the country if you would spend all the money proposed in this inspection business by putting up laboratories all over the country. Our claim was those laboratories should be out West, and they are putting them out West now.

The CHAIRMAN. Do you want the one at Baltimore continued?

Mr. VINCENT. We are not particular.

The CHAIRMAN. The Baltimore people would be willing to have that laboratory abolished?

Mr. VINCENT. I would; yes, sir.

The CHAIRMAN. Is that the feeling of all the others?

Mr. VINCENT. I would like you to hear what the others have to say.

The CHAIRMAN. You do not care anything about government inspection at Baltimore?

Mr. VINCENT. No, sir. We have done our best to help them, because we wanted to give them the benefit of the commercial experience; if it was going to be of any use it should be on a commercial basis, not on a theoretical basis.

The CHAIRMAN. What I am trying to ascertain is whether that laboratory is of any value to anyone or not.

Mr. ESCH. As the result of the inspection of over 9,000 samples, representing 70,000,000 bushels of grain, what concrete deductions or recommendations can the laboratory now make?

Mr. VINCENT. They could not do it now.

Mr. ESCH. Nothing?

Mr. VINCENT. They can say that above a certain point corn should not be shipped.

Mr. ESCH. Have they fixed that point?

Mr. VINCENT. No; they can not do it.

Mr. ESCH. Well, have they fixed it within limits?

Mr. VINCENT. We have proven that corn will go with 17 per cent or 18 per cent of moisture all right, and that corn with 16 per cent won't go all right; there are factors outside of the moisture; some seem to think moisture is everything, but it is not.

Mr. ESCH. So, as a matter of fact, there are no valuable deductions that can be drawn from this vast number of inspections as yet?

Mr. VINCENT. I think so; I think it helps.

Mr. ESCH. What valuable deductions can be drawn?

Mr. VINCENT. It helps the western man. If he says it ought to grade No. 2, and if we put it in the laboratory and it has 25 per cent of moisture in it we get a certificate and send it to the western man, and the western man stops hollering.

Mr. ESCH. Then it has some advantage, has it?

Mr. VINCENT. Oh, certainly.

Mr. ESCH. It has some advantage to Baltimore as an exporting center, has it not? Does it not make the farmers of the West more contented with you market?

Mr. VINCENT. That I do not know, I am sure.

Mr. ESCH. You said it was to make them more contented, and that Baltimore ought to hang on to the government laboratory.

Mr. VINCENT. We are satisfied one way or the other. I am. Of course there are some people that do not agree with me; we do not always think alike. We have worked faithfully and stood by the men who have been there, and this report shows it, in order to do what is best for the country. Right at the present time there are some things going on which we wanted them to do for twelve months and they have not done them yet. They say they have not enough men; that is, making tests in the driers, putting the corn into driers to ascertain how much temperature and how much draft it takes. No one knows yet how much draft and how much temperature it takes to take 5 per cent of moisture out of corn or 4 per cent or 3 per cent.

Mr. ESCH. Has the laboratory demonstrated that corn grown south of a certain parallel of latitude contains more moisture than corn grown above that parallel of latitude?

Mr. VINCENT. No, sir. We have a machine in use in Baltimore called the Zeleny machine, with which we can test the individual grains of corn. I have made experiments with the head of the laboratory at Baltimore, the government official, on 50 grams. We divided a sample; he took one 50 and I took the other 50. One was put in the testing apparatus, the government testing apparatus; and we were able, then, through this electrical machine, to take the moisture in every individual kernel of that other 50. We kept the white separate from the yellow, and there were about 164 or 165 grains in the 50 grams. We then added it up, averaged it, and secured the result. There was about five-eighths of 1 per cent difference only in the two tests, but we did prove that there was a difference of 6 per cent in the individual grains of corn in that one sample—that is, between the highest and the lowest moisture.

Mr. ESCH. That information is of value, is it not?

Mr. VINCENT. That was not government work; that was what we showed the Government, that their moisture and their talk of uniformity of inspection was about what we said at the start, almost impossible. You can educate people; we can get to a basis which is better and learn something, and we ought to advance as we go along, if you will use technical knowledge, without prejudice, and get what you can out of it, instead of opposing anything that is brought out on that line. And we feel rather proud in Baltimore that we have done something toward helping out the United States to do what was right in the inspection business. It is not up where it ought to be at present, we presume. Now, the question was asked about the Liverpool market; I think Mr. Gronna spoke about that. The market value of American grain is made by the quantities that are for sale and the prices in all other parts of the world. This year Russia has made the price.

Mr. ESCH. When a cargo of corn which has been tested by the government laboratory is shipped from Baltimore, does the knowledge of that fact come to the buyer abroad?

Mr. VINCENT. No, sir.

Mr. ESCH. Does the exporter take pains to disclose to his purchaser abroad the fact that there has been a laboratory test made by the Government?

Mr. VINCENT. No, sir. I have put in data here. You gentlemen can see what we said. We said we were not going to have it as government inspection. We know what we are doing.

Mr. ESCH. Do the foreign buyers know that there is a government laboratory at Baltimore which makes tests?

Mr. VINCENT. We had copies made in German and French and sent over several thousand in 1906.

Mr. ESCH. When it was established?

Mr. VINCENT. Yes; we have not hit it. I had a gentleman from Glasgow in town only two or three days ago, and I showed it to him and he thought it was fine. The Government suggests now, or the intimation is, drawing some deductions from the trip to Europe of Mr. Shanahan and this other gentleman, and moisture testing, that we should sell based on the difference in the moisture on arrival at the other side; well, we are not going to stand for anything of that sort.

Mr. ESCH. This laboratory only tests corn?

Mr. VINCENT. No, they work on wheat, too.

Mr. ESCH. Their deductions as to wheat are more reliable, are they?

Mr. VINCENT. I should judge so; we seldom have any samples tested; some of the other gentlemen can tell you; I have not had any tested. I referred to these Illinois gentlemen because it has been in print within the last two or three weeks that this government laboratory and testing machine was not of any account, because you could take three samples out of one sample and put them into three different machines and there would be three different results, and the farmer can not understand; if he sends us a sample of one kind and gets a report of 19 per cent from one man, 19½ per cent from another man, and somebody else says 18 per cent, he can not understand that; so they do not like it, apparently do not like it. How can you expect to get uniformity when these three samples, taken out of one other sample, will all vary on moisture? When I can prove and can swear that you can take one sample and you can take 100 grains and make several per cent of variation in the individual grains—now, it can not be uniform. All of it does not grow in the same field, and that which grows in one field varies from that which grows in another field, and that which grows in the center of the field will be different from that which grows in the corners of the field. So when we talk about uniformity it is one of the things we think the men who have been brought up in the business, who have given it their life study, know something about, although they may not make themselves plain to those who are not familiar; however, the intention I had in coming here was to explain things so that you could grasp them.

The CHAIRMAN. Is it your judgment that an expert can sample grain better by the sight of it and by the physical examination of it than a laboratory can sample it through the methods they use?

Mr. VINCENT. Well, our experience——

The CHAIRMAN. That is an easy question to answer.

Mr. VINCENT. In our business I would say I think we can do just as well as the laboratory.

The CHAIRMAN. Do you think you can do it better than the laboratory?

Mr. VINCENT. Well, I would not want to say that.

The CHAIRMAN. Has the work of this laboratory progressed to that point where, in your judgment, they have established grades that they can follow?

Mr. VINCENT. No; every day shows that they are as far off as they were at the beginning.

The CHAIRMAN. Has the work progressed to the extent that they can come nearer in establishing fixed grades than these experts can who rely upon samples and upon the rules of the exchange?

Mr. VINCENT. No; I do not think so.

The CHAIRMAN. You think the experts grading grain at Baltimore and the experts at Chicago are much more likely to reach uniformity, if they desire to, by the examination by sight and touch than the laboratory can?

Mr. VINCENT. I think so; yes, sir. I would say this, that the exchanges have all been working and doing their best to try to meet on some common ground of uniformity for perhaps a few grades. If there is nothing that is equal to that grade then you can not handle it, but we do not propose to take any grade the Government might give us; we feel this way, that that bill precludes the individual rights of a citizen to do business in grain unless it is under the Government. I, for one, feel very sore on that.

The CHAIRMAN. The Democratic members of the committee are not here, and you should appeal to them on the state rights proposition.

Mr. VINCENT. No, Mr. Chairman, you do not understand me.

The CHAIRMAN. Yes, I do.

Mr. VINCENT. Will you allow me to finish? I would be willing to give the whole country government inspection to-morrow if they allow me to do my export business without let or hindrance. Do as I did it thirty-five years ago, sell on my reputation and on samples with certificates.

The CHAIRMAN. Do you do that now?

Mr. VINCENT. No, because——

The CHAIRMAN. Why do you not do it now? There is no law to prevent it.

Mr. VINCENT. I can not do it now.

The CHAIRMAN. They won't buy it that way, will they?

Mr. VINCENT. Not at the moment. You mean to say they won't buy it on reputation? Now they do.

The CHAIRMAN. Can you sell any grain abroad except on the basis of their examination of the grain when it reaches the other side or a grade that is fixed by one of the bodies here that fixes grades?

Mr. VINCENT. I have done it; yes, sir.

The CHAIRMAN. Do you do it now?

Mr. VINCENT. There is no business passing now.

The CHAIRMAN. Oh, yes; there is grain going abroad.

Mr. VINCENT. Very little. We ship rejected corn, but they do not see any sample; there is a variation of that in color; that is sold simply on its representation.

The CHAIRMAN. I do not think you can get very far by simply saying the grain will be so and so, without any opportunity of verifying that.

Mr. VINCENT. Well, it has been done.

The CHAIRMAN. It may have been done, but it is not done now, and never will be done again.

Mr. VINCENT. Because the inspection has been so good by the commercial organizations, they are willing to take those certificates as final.

Mr. DAISH. Mr. Chairman, Mr. Esch asked a question concerning the laboratory work in reference to wheat. Mr. Dennis has had some wheat examined and will explain just what they do with wheat, which, I am informed, is different than what is done with corn.

STATEMENT OF MR. JOHN M. DENNIS, OF BALTIMORE, MD.

Mr. DENNIS. In the laboratory work in wheat the question of moisture in wheat, as a rule, is not very important. In wheat the analysis is generally for foreign matter, like seeds, oats, or admixtures of dirt, like this you see here [indicating sample]. We do not have any trouble in carrying wheat. The examination is only for foreign matter in it. The laboratory does not look for moisture in wheat like it does in corn, because wheat will carry all right.

Mr. ESCH. No matter whether it is soft wheat or not?

Mr. DENNIS. Well, we have, I think, the softest wheat that is raised in the United States, raised right in Maryland; I do not think there is any wheat that is softer than ours.

Mr. ESCH. That makes a fairly good shipping article, does it?

Mr. DENNIS. We have a low grade there, called steamer wheat, it is really very damp, and even that will carry to Europe safely, although it contains a very large per cent of water.

The CHAIRMAN. If no one else wishes to be heard this morning the committee will adjourn to meet Tuesday, May 24, 1910.

BALTIMORE, MD., *May 21, 1910.*

DEAR SIR: In the flurry yesterday I omitted to give you some data requested:

First. Referring to the screenings from the durum wheat from North Dakota, I mentioned that we bought about 220,000 bushels of No. 1, Baltimore inspection. About 30 cars would not grade, 2 cars went rejected, and were sold at 10 cents discount.

We cleaned and screened 28,252.10 bushels, which graded Nos. 2 and 3 on arrival and took out 46,780 pounds—779.40 bushels of stuff shown the committee before it would grade No. 1.

This is wanted clear.

Second. When I produced the map of Canada showing the four trunk lines and elevators marked, I referred to a paper that I had of government act covering the "Inspection and sale of grain, amendment act, 1908," and said I could not file it.

I would like to say there that I referred to 7–8 Edward VII, chapter 36, No. 8, section 123, and that it covered all grain produced in the provinces of Manitoba, Saskatchewan, and Alberta, and the Northwest provinces, passing through the Winnipeg district en route to the points east thereof, should be inspected at Winnipeg.

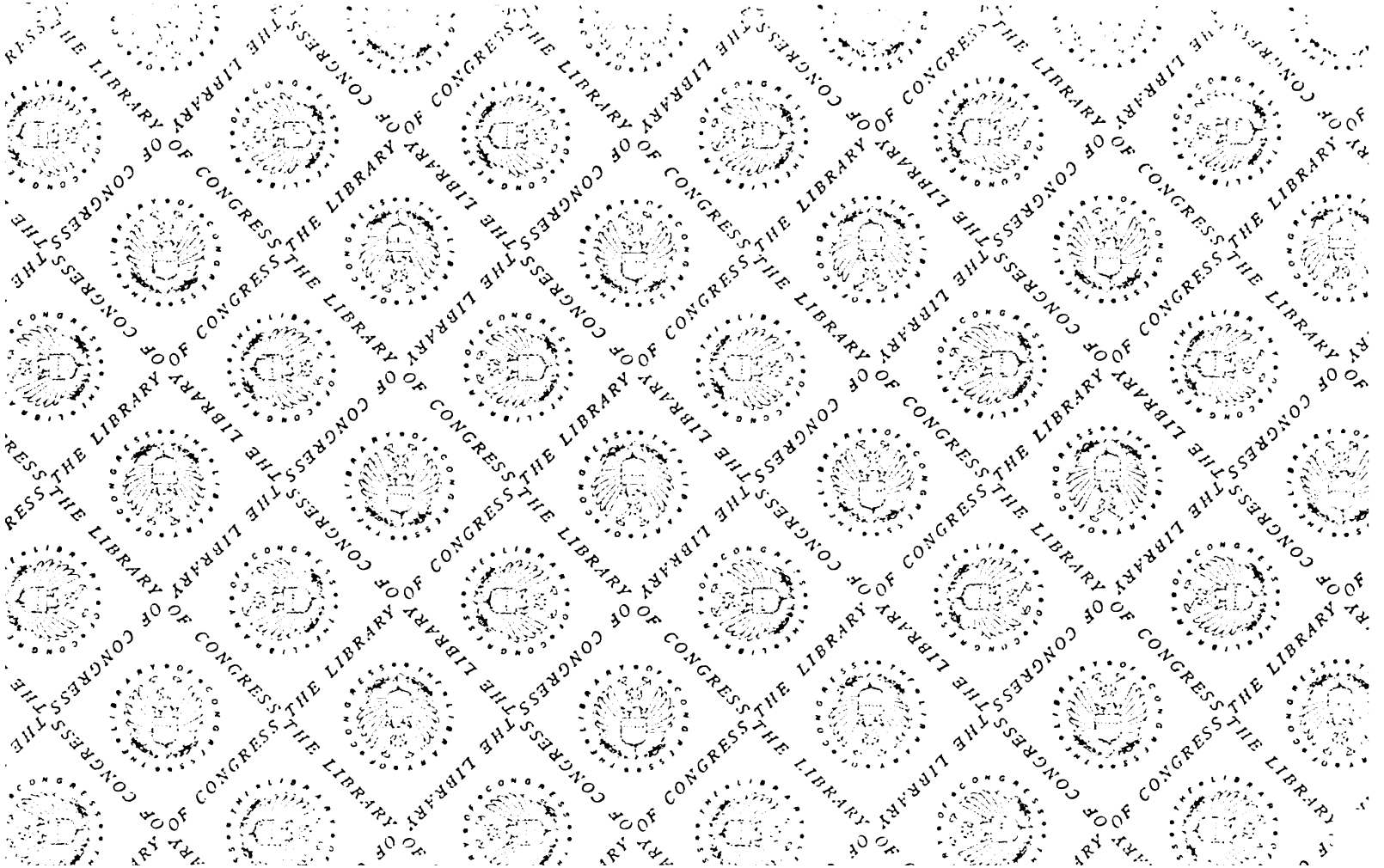
Third. When I referred to the Illinois people complaining of the moisture test at Chicago, I stated it was the Illinois Grain Dealers' Association, and I would like to insert (see American Grain and Elevator Journal March 15, 1910, p. 494).

If it is in order and regular, I would like to have a copy of your notes on my testimony submitted to me so that I can correct any technical expressions that may not have been understood.

How is that? I will return promptly.

Yours, truly, J. C. VINCENT.

P. S. I remember reading once, several years ago, "Durham" printed right straight through some testimony instead of "Durum."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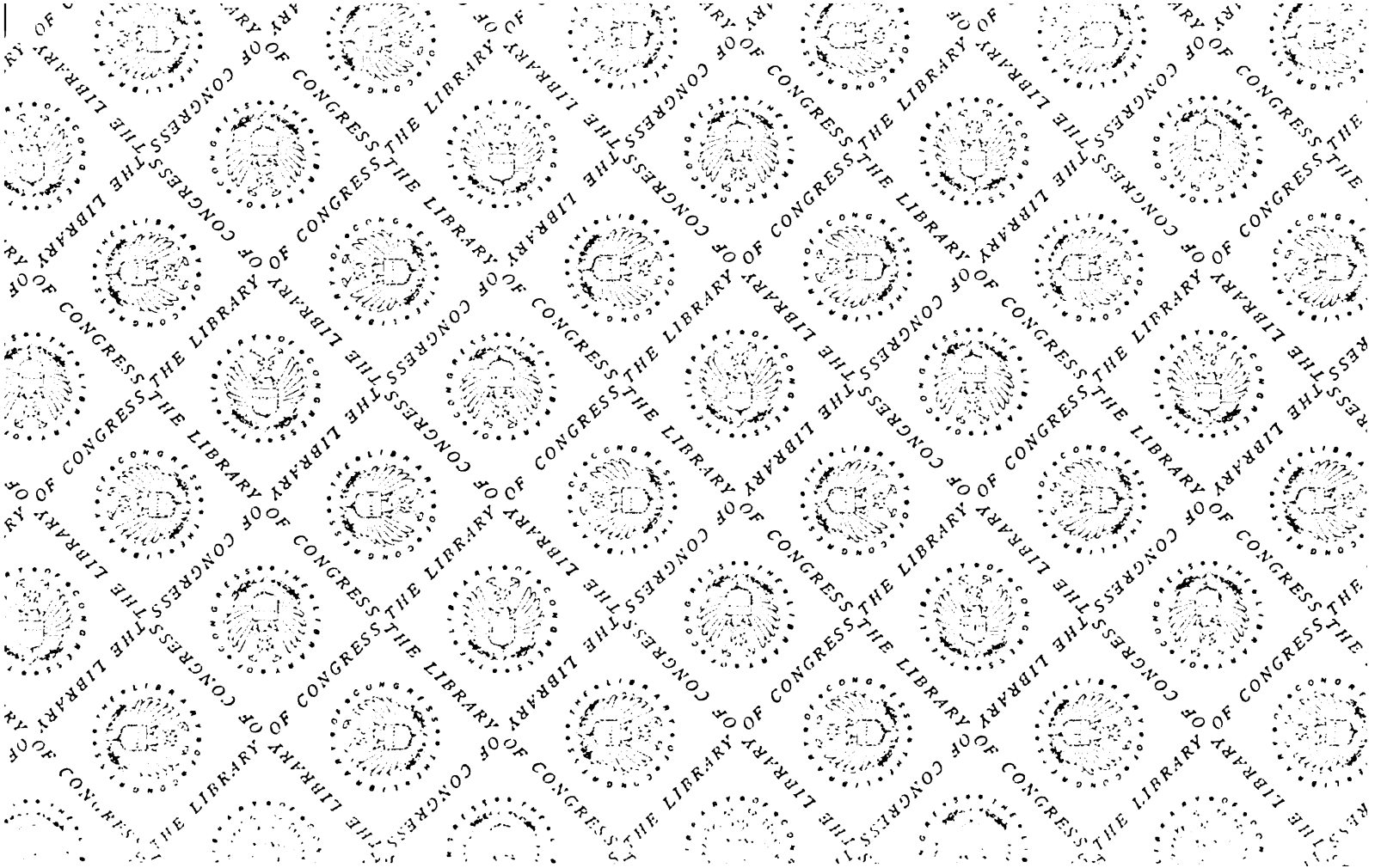
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